

Twenty-fifth Annual Session of the International Seabed Authority (Second Part): Wednesday, 24 July 2019

On Wednesday, the Assembly of the International Seabed Authority (ISA) continued its deliberations, focusing on the implementation of the Authority's Strategic Plan 2019-2023, including a draft high-level action plan and key performance indicators (KPIs). Delegates also heard and discussed the report of the Chair of the Finance Committee.

Implementation of the Strategic Plan 2019-2023

Assembly Vice-President Mariusz Orion Jędrysek (Poland), on behalf of President Johnson Smith, opened the discussion on the implementation of the Strategic Plan. He reminded delegates that the relevant documents, which include the draft high-level action plan for 2019-2023 (ISBA/25/A/L.2), the performance indicators for the implementation of the Strategic Plan (ISBA/25/A/5), and the draft ISA decision relating to the implementation of the Strategic Plan (ISBA/25/A/6) had been introduced on Monday, 22 July.

General: Many lauded the Secretariat for its hard work and stressed that the draft high-level action plan and KPIs should be kept under review. CHILE called for specific, measurable, attainable, and relevant performance indicators, with timelines, and suggested, with COSTA RICA, ECUADOR, and BRAZIL, the establishment of an open-ended working group to work interessionally.

JAMAICA, COSTA RICA, and CHILE requested clarification on the areas where there are no specific outputs in the high-level actions. Noting that the high-level action plan provides the basis for the development of a business plan, JAMAICA expressed concern on potential budgetary considerations where no outputs are stated.

The NETHERLANDS flagged that there is no mention of a clear timeline for completion of the draft exploitation regulations, and, with JAPAN, AUSTRALIA, NAURU, MEXICO, BELGIUM, the UK, THAILAND, and ITALY, expressed support for the adoption of the draft high-level action plan and its associated indicators. NAURU cautioned against micromanaging the Secretariat, calling for early implementation of the Strategic Plan. Considering limited resources, JAPAN suggested that priority be given to the development of standards and guidelines to expedite the draft exploitation regulations.

ITALY proposed that the Secretariat optimize KPIs in an updated table to illustrate the specific activities related to the actions, in order to systematically assess the indicators in a periodic review process. ARGENTINA noted that the Strategic Plan starts in 2019, thus the lack of an action plan constitutes a "great gap." ECUADOR underscored the need for transparency to achieve a balance between commercial exploitation and preservation of oceans. INDIA and the RUSSIAN FEDERATION noted that a number of the proposed timelines end in 2019, stressing that it is not "realistic" to try to meet them given that there are no more sessions of ISA organs planned for the duration of the year.

MEXICO stressed that the draft high-level action plan will contribute to the process of institutional learning. CANADA

welcomed the inclusion of online or virtual meetings as a KPI and preferred excluding the completion date for the draft exploitation regulations.

The DEEP SEA CONSERVATION COALITION (DSCC) emphasized aligning KPIs with the 1994 Agreement and suggested two additional indicators: the number of open LTC meetings; and the establishment of a process of soliciting and taking on board public comments on any future environmental impact assessments (EIAs) and monitoring plans.

Realize the role of the Authority in the global context:

Algeria, for the AFRICAN GROUP, proposed establishing partnerships with "regional organizations," like the African Union, in addition to international organizations. CHILE stressed the Authority's role to promote a balance between the three sustainability pillars when planning activities in the Area. HOLY SEE emphasized that some of the KPIs do not indicate the Authority's performance, but rather recognize the extent of its global influence.

Strengthen the regulatory framework for activities in the Area:

The AFRICAN GROUP suggested clarifying the roles and responsibilities of stakeholders, particularly sponsoring and flag states, and urged the Secretariat to publish the matrix of responsibilities as soon as possible. CHILE underscored the importance of taking into account aspects of the circular economy. CHINA proposed that monitoring and reviewing of contractors' compliance be performed by the LTC rather than the Secretariat. HOLY SEE suggested further work with sponsoring and flag states, terrestrial-based producers, and the International Maritime Organization. Eden Charles, Special Representative for the Enterprise, urged ensuring that the Enterprise is part of the development of the regulatory framework for activities in the Area.

Protect the marine environment: CHILE underscored a "vacuum in the implementation" of regional environmental management plans (REMPs), noting that some of the high-level actions and measures have no descriptions. CHINA proposed that the Council be responsible for REMPs development rather than the Secretariat; stressed that it is too early to decide on the establishment of a mechanism for engaging consultants to the Authority's work; and requested deleting the qualifier "independent" in relation to the review mechanism for environmental plans, noting that these matters are closely related to the development of the draft exploitation regulations.

COSTA RICA proposed clarifying that the performance of the Authority be assessed through its capacity to develop, implement, and keep under review the regular rules and procedures "based on best available science, the precautionary principle, and best environmental practices." ITALY encouraged the prioritization of mining tests in the monitoring programme and recommended that this be open to public consultation.

INDIA noted that the LTC had not developed recommendations for the guidance of contractors in relation to conducting EIAs of mining tests, querying when this would happen. ARGENTINA and HOLY SEE requested clarification on what constitutes "non-confidential environmental information." HOLY SEE added that the

draft high-level action plan and the KPIs should include economic methodologies on risk as well as the natural capital and ecological services to assess potential risks of activities in the Area.

Promote and encourage marine scientific research (MSR)

in the Area: COSTA RICA, supported by the DSCC, proposed an additional indicator to promote MSR to ensure effective protection of the marine environment and related obligations of the Convention, including through REMPs. HOLY SEE proposed analyzing the consequences of confidentiality and property laws. INTERRIDGE appreciated the increase of MSR in the Area and encouraged wider participation across different scientific disciplines.

Building capacity for developing states: The AFRICAN GROUP called for categorizing states according to UNCLOS, including geographically disadvantaged states. FIJI looked forward to the establishment of a regional ISA center in the Pacific region, in line with UNCLOS Article 156 (establishment of the Authority).

COSTA RICA, supported by HOLY SEE, proposed amending the indicators to measure actions by the Authority to promote financial contributions, rather than the actual number of contributors. ITALY highlighted the importance of environmental baseline data collection in order to meet future minimum environmental requirements. ARGENTINA suggested that consultations with developing states on participation barriers be held on a regular basis.

Ensure fully integrated participation by developing states: INDIA urged partnering with the Intergovernmental Oceanographic Commission of UNESCO (IOC-UNESCO) for the provision of training opportunities; underlined the need to monitor whether beneficiaries of capacity building return to their countries; and called for providing access to information on resource assessments of reserved areas to interested potential contractors.

Improve the organizational performance of the Authority: INDIA underscored the importance of transparent recruitment processes, incorporating external expertise to promote better hiring practices. HOLY SEE requested including a reference to preventing conflicts of interest.

Commit to transparency: The AFRICAN GROUP requested clarification on the definition of confidential information and data. COSTA RICA proposed an additional indicator to make publicly available the contracts, contractors' annual reports, and related environmental information, including the EIAs associated with applications for Plans of Work.

Secretary-General Lodge responded to interventions, explaining the goal of the draft high-level action plan is to determine what needs to be done to implement the Strategic Plan and inform the business plan. He confirmed that a matrix of responsibilities will be published and released in 2020.

In the afternoon, introducing the revised documents containing track changes on the draft high-level action plan and the draft KPIs, President Johnson Smith highlighted that the amendments made to the drafts were the result of robust discussions with those concerned.

Secretary-General Lodge drew attention to an amendment under strategic direction related to transparency, namely: the measures taken by the Authority, in conformity with UNCLOS and the rules, regulations, and procedures of the Authority, to make publicly available the contracts, contractors' annual reports, as far as reasonably feasible, and related environmental information, including the impact assessments associated with applications for the plans of work when allowed by national legislation will be monitored.

FEDERATED STATES OF MICRONESIA (FSM) supported the inclusion of best environmental practices for the development of rules for the environmentally responsible management of activities in the Area, calling also to include the relevant traditional knowledge of indigenous peoples and local communities. Reiterating that the action plan is a "living document," BRAZIL welcomed the amendments.

Regarding transparency, INDIA provided background information on the discussion regarding making contractors' annual reports publicly available, taking into account confidentiality issues, including the use of the relevant template. He requested taking into account the contractors' concerns and further reiterated his concern regarding activities that should have been taken up in 2019. COSTA

RICA responded that the relevant language addresses the measures taken by the Authority and not the assessment of contractors' work, further requesting clarification on the meaning of the addition of "as far as reasonably feasible" in the publication of contractors' annual reports.

Following informal consultations, Secretary-General Lodge shared revised text that the Authority shall make available "non-confidential information of the contracts and the contractors annual reports, when allowed by national legislation."

The Assembly adopted the draft decision contained in ISBA/25/A/6, with the understanding that the high-level plan and KPIs in ISBA/25/A/L.2 and ISBA/25/A/5 have been revised and agreed.

Report of the Finance Committee

Andrzej Przybycin (Poland), Chair of the Finance Committee, presented the report of the Finance Committee (ISBA/25/A/10-ISBA/25/C/31) and the draft decision relating to financial and budgetary matters (ISBA/25/A/L.3). He highlighted, *inter alia*: the implementation of the budget for 2017-2018; the status of the working capital fund, contributions, and trust funds; the review of cost-savings matters; and the Finance Committee's recommendations to the Council.

INDIA requested information on the additional costs covered by each contractor, which could be recovered over the next financial year. ARGENTINA highlighted the need to diligently address norms and procedures on equitable benefit sharing, and suggested studying cost estimates of the office of the Special Representative for the Enterprise, with a view to reduce costs.

Responding to comments, Finance Committee Chair Przybycin noted that: the survey on the information requested by India is in progress and the results will be available in 2020; and the benefit-sharing considerations are complex, reminding the Assembly that it can provide advice to the Finance Committee.

Draft Decision Relating to Financial and Budgetary Matters

President Johnson Smith introduced a draft decision on financial and budgetary matters (ISBA/25/A/L.3). Regarding transfer of resources resulting from reduction in the costs of conference services to ISA's programmes, INDIA requested clarification on the nature of these programmes.

The Secretariat took note of the comment. The Assembly adopted the draft decision.

In the Breezeways

On Wednesday, delegates engaged in mid-week deliberations on the high-level action plan and performance indicators related to the 2019-2023 Strategic Plan, the first of its kind for the Authority. Although Secretary-General Michael Lodge assured delegates that "this is an ongoing process of institutional learning," there was some initial confusion about how to address what some perceived as "gaps," in the draft plan and performance indicators. For instance, a few delegations pointed to the fact that, for some activities, the timelines are due in 2019, leading the Indian delegate to stress that, for these activities: "We may have missed the bus, the train, or the flight." Others pointed to the need for stronger indicators related to environmental protection, transparency, and marine scientific research. Some also expressed skepticism about the assertion that the action plan is "a living document," noting that the Assembly will need to sign off on those activities scheduled to be completed before its next meeting, and proposing the establishment of an intersessional working group to further refine the plan.

Following lengthy informal consultations leading to delegates approving the revised drafts circulated in the late afternoon, many felt buoyed by the results of the rushed negotiations. "We have managed, in one afternoon, to bring transparency to the fore, opening up the work of the Authority to stakeholders, and therefore to the world," said one joyful delegate, who also noted the "improved language on environmental indicators." With a sigh of relief, he added that "we can now enjoy the commemorative session for the Authority's 25th anniversary tomorrow worrying less about the outcomes of our work."