

Summary of the 27th Session of the Assembly of the International Seabed Authority: 1-4 August 2022

The work of the International Seabed Authority (ISA) has been attracting increasing attention from policymakers, the environmental community, media, and the public. And for a good reason. ISA is mandated to “organize, regulate, and control” all mineral-resource related activities in the Area (the seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction) “for the benefit of humankind as a whole.”

As environmental concerns continue to grow, the prospect of extracting mineral resources from the deep seabed has generated quite a debate. The ISA’s key role is to develop the “Mining Code,” which is the set of rules, regulations, and procedures to regulate prospecting, exploration, and exploitation of minerals in the Area. The discussion on the draft exploitation regulations has dominated ISA’s recent work.

Although the ISA Assembly, the “supreme organ” of the organization, is less involved in the negotiation of the draft exploitation regulations, which are mainly addressed by the ISA Council and the Legal and Technical Commission, it was almost impossible not to discuss this “hot potato” during the week-long gathering.

During its meeting, the 27th Session of the ISA Assembly:

- elected 18 members for the ISA Council and 15 members for the Finance Committee for 2023-2026;
- addressed the annual report of the Secretary-General and the wealth of activities in the period 2021-2022 to deliver against the nine strategic directions and associated relevant high-level actions of the ISA Strategic Plan and High-Level Action Plan for 2019-2023, as well as the capacity development strategy;
- received updates on the work of the Council;
- approved five requests for observer status; and
- discussed financial and budgetary matters, including adopting the budget for the financial period 2023-2024.

Two discussions were held under “other matters.” The first was a proposal by Chile, which initially suggested the addition of a new agenda item titled “Discussion of the issues relating to the triggering of the two-year timeline.” The two-year timeline refers to a provision in the 1994 Agreement relating to the implementation of the UN Convention on the Law of the Sea (UNCLOS) Part XI (the

Area). The provision notes that if the Council has not completed the elaboration of the rules, regulations and procedures relating to exploitation within two years following the request of a state who intends to apply for approval of a plan of work for exploitation, then the Council “shall nonetheless consider and provisionally approve such plan of work based on the provisions of the Convention and any rules, regulations, and procedures that the Council may have adopted provisionally, or on the basis of the norms contained in the Convention and the terms and principles contained in this Annex as well as the principle of non-discrimination among contractors.” On 25 June 2021, Nauru submitted such a request, in connection with its contractor Nauru Ocean Resources Inc. Since the “Mining Code” may not be adopted by the end of the two-year timeline (25 June 2023), this issue is expected to generate further debates in upcoming ISA meetings.

The second focused on a proposal by Belgium to amend one of the rules of procedure of the Assembly to allow “representatives of entities having obtained a contract with the Authority” as well as

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the Enterprise to obtain observer status at the ISA. This suggestion created mixed feelings among Member States and observers and is also expected to be further addressed at future meetings.

A special event was held on the first day of the meeting, at the request of Jamaica, to commemorate the 40th anniversary of the adoption and opening for signature of the UNCLOS.

The Assembly met from 1-4 August 2022 in Kingston, Jamaica, concluding its deliberations one day earlier than scheduled. Approximately 50 Member States and representatives of 15 observers attended the meeting. The Assembly met at the Knutsford Court Hotel as renovations take place at the Jamaica Conference Centre, the usual venue of the Authority. This created an unfamiliar negotiating environment where delegates and observers had to sit in different rooms, which limited interaction.

A Brief History of the ISA

Origins of the International Seabed Authority

The 1982 United Nations Convention on the Law of the Sea (UNCLOS), which entered into force on 16 November 1994, sets forth the rights and obligations of states regarding the use of the ocean, its resources, and the protection of the marine and coastal environment. UNCLOS established that the Area and its resources are the common heritage of humankind.

Polymetallic nodules were detected for the first time on the deep seabed by the HMS Challenger expedition in 1873. They are distributed on the surface or half-buried across the seabed, principally in the Clarion-Clipperton Zone in the Pacific Ocean. They contain nickel, copper, cobalt, and manganese, among other metals. Other minerals have since been discovered in the Area: cobalt-rich ferromanganese crusts, which are mineral accumulations on seamounts and contain cobalt, nickel, copper, molybdenum, and rare earth elements; and polymetallic sulphides, which are formed through chemical reactions around hydrothermal vent sites, and contain copper, zinc, lead, silver, and gold.

Under the common heritage regime, UNCLOS provides that:

- no state can claim or exercise sovereignty or sovereign rights over any part of the Area or its resources;
- activities in the Area must be carried out for the benefit of humankind as a whole, irrespective of the geographical location of states, taking into particular consideration developing states' interests and needs;
- the Area and its resources are open to use exclusively for peaceful purposes by all states, whether coastal or land-locked, without discrimination; and
- financial and other economic benefits derived from activities in the Area must be equitably shared, on a non-discriminatory basis.

To address certain difficulties raised by developed countries with the UNCLOS regime for the Area, the Agreement relating to the implementation of UNCLOS Part XI (the Area) was adopted on 28 July 1994 and entered into force on 28 July 1996. The Agreement addresses fiscal arrangements and costs to state parties, institutional arrangements, the ISA decision-making mechanisms, and future amendments of UNCLOS.

The ISA is an autonomous institution under UNCLOS Part XI and the 1994 Implementing Agreement to organize and control

activities in the Area, particularly with a view to administering the resources of the Area. The Authority, based in Kingston, Jamaica, was established on 16 November 1994 and became fully operational in 1996. Among other things, the ISA is mandated to provide for the necessary measures to ensure the effective protection of the marine environment from harmful effects, which may arise from mining activities in the Area.

The ISA organs include the Assembly, the Council, the Finance Committee, the Legal and Technical Commission (LTC), and the Secretariat. The Assembly consists of all ISA members and has the power to:

- establish general policies;
- set the budgets of the Authority;
- approve the rules, regulations, and procedures governing prospecting, exploration, and exploitation in the Area, following their adoption by the Council; and
- examine annual reports by the Secretary-General on the work of the Authority, which provides an opportunity for members to comment and make relevant proposals.

The Council consists of 36 members elected by the Assembly, representing:

- state parties that are consumers or net importers of the commodities produced from the categories of minerals to be derived from the Area (Group A);
- state parties that made the largest investments in preparation for, and in the conduct of, activities in the Area, either directly or through their nationals (Group B);
- state parties that are major net exporters of the categories of minerals to be derived from the Area, including at least two developing states whose exports of such minerals have a substantial bearing upon their economies (Group C);
- developing state parties, representing special interests (Group D); and
- members elected according to the principle of equitable geographical distribution in the Council as a whole (Group E).

The Council is mandated to establish specific policies in conformity with UNCLOS and the general policies set by the Assembly, and to supervise and coordinate implementation of the Area regime.

The LTC is an organ of the Council and currently consists of 30 members elected by the Council on the basis of personal qualifications relevant to the exploration, exploitation, and processing of mineral resources, oceanography, and economic and/or legal matters relating to ocean mining. The LTC reviews applications for plans of work, supervises exploration or mining activities, assesses the environmental impact of such activities, and provides advice to the Assembly and Council on all matters relating to exploration and exploitation.

The ISA has been developing a Mining Code, which is a set of rules, regulations, and procedures to regulate prospecting, exploration, and exploitation of marine minerals in the Area. To date, the Authority has issued: Regulations on Prospecting and Exploration for Polymetallic Nodules (adopted on 13 July 2000, updated on 25 July 2013); Regulations on Prospecting and Exploration for Polymetallic Sulphides (adopted on 7 May 2010);

and Regulations on Prospecting and Exploration for Cobalt-Rich Ferromanganese Crusts (adopted on 27 July 2012). The ISA is in the process of developing exploitation regulations.

Recent ISA Sessions

24th Session: The 24th session of the ISA was held in two parts. The first part consisted of a meeting of the Council (5-9 March 2018), followed by a meeting of the LTC (12-23 March). The second part consisted of meetings of the Council (16-20 July 2018) and the Assembly (23-26 July), preceded by meetings of the LTC (2-13 July) and the Finance Committee (9-12 July). The Council considered issues related to the draft exploitation regulations, including: models for a financial payment system; the role of the sponsoring state; the role and legal status of standards; the LTC's recommendations and guidelines; and broader environmental policy and regulations on exploitation. The Assembly adopted the Strategic Plan for 2019-2023, which consists of a mission statement, context and challenges, strategic directions, and expected outcomes.

The Council further addressed the possible operationalization of the Enterprise and contractors' non-compliance issues. The Enterprise, as envisioned under UNCLOS, is the commercial arm of the Authority, mandated to conduct its own mining, initially through joint ventures with other entities. Until seabed mining becomes a commercial reality, the functions of the Enterprise are to be carried out by the Secretariat.

25th Session: The first part of the 25th Session of the ISA Council was held from 25 February to 1 March 2019, followed by a meeting of the LTC (4-15 March). The second part included meetings of the Council and Assembly (15-26 July), preceded by meetings of the LTC (1-12 July) and the Finance Committee (8-10 July). The Council made progress on the draft exploitation regulations, addressing, *inter alia*: standards, guidelines, and terms; decision-making; Regional Environmental Management Plans (REMPs); and the inspection mechanism. At the end of the second part, Council members requested more time to submit comments on the draft regulations in order to ensure a balance between commercial interests and environmental protection.

The Council further considered a report on matters relating to the Enterprise, deciding to extend and expand the mandate of the Special Representative of the Secretary-General of the ISA for the Enterprise for a limited time. At this meeting, which marked the ISA's 25th anniversary, the Assembly oversaw the operationalization of the Authority's first Strategic Plan, with delegates also deliberating on enhancing participation and transparency through the admission of observers.

26th Session: The Council met for two sessions (17-21 February 2020 and 6-10 December 2021). The Assembly met from 13-15 December 2021. The LTC convened from 24 February-6 March 2020 and the Finance Committee held its meeting from 12-14 July 2021.

The Council continued its work on the draft exploitation regulations, discussing, among others, a proposal for the development, approval and review of REMPs and a proposal for minimum requirements for such plans.

It further approved: the plan of work for exploration for polymetallic nodules submitted by Blue Minerals Jamaica

Ltd.; and the application for extension of the contracts for exploration for polymetallic nodules by JSC Yuzhmoregeologiya, the Interoceanmetal Joint Organization, Deep Ocean Resources Development Co. Ltd., China Ocean Mineral Resources Research and Development Association, Institut français de recherche pour l'exploitation de la mer, the Federal Institute for Geosciences and Natural Resources of Germany, and the Government of the Republic of Korea.

The Assembly re-elected Michael Lodge as Secretary-General of the ISA for a four-year term (2021-2024), approved the budget for the period 2021-2022, and took other finance-related decisions, including appointing Ernst and Young as auditor for the financial period 2021-2022.

27th Session: The 27th session of the ISA was split into three parts. The first part, comprised of meetings of the LTC and the Council, convened in March 2022 (14-18 March for the LTC and 21 March-1 April for the Council). The second part included meetings of the LTC (4-15 July 2022), the Finance Committee (13-15 July), the Council (18-29 July), and the Assembly (1-5 August). A third part, including a Council meeting, is scheduled for 31 October-11 November 2022.

In both its sessions, the Council addressed the negotiations of the draft exploitation regulations through informal and open-ended working groups. At its first meeting, the Council discussed the importance and operationalization of the Enterprise, and agreed to consider, at the next Council meeting, a draft to operationalize the Enterprise.

At its second meeting, the Council:

- recommended that the Assembly approve a budget for the ISA for 2023-2024, following the recommendations by the Finance Committee;
- approved a memorandum of understanding between the ISA and the African Union; and
- adopted a decision on the mechanism of election of LTC members for 2023-2027.

ISA-27 Assembly Report

Olivier Guyonvarch, France, on behalf of Denys Wibaux, France, Assembly President for the 26th Session, opened the meeting on Monday.

ISA Secretary-General Michael Lodge welcomed delegates, underscoring Jamaica's Emancipation Day, on 1 August. JAMAICA, as the host country, highlighted the celebration of Emancipation Day and the celebration of 60 years of independence on 6 August.

Delegates paid tribute to the late Nii Allotey Odunton, who served as ISA Secretary-General from 2009-2016 and passed away on 13 February 2022. Member States mourned his loss, stressing he had dedicated his life to developing a robust regulatory framework for the deep seabed.

Organizational Matters

Adoption of the agenda: Acting President Guyonvarch introduced the provisional agenda of the Assembly on Monday (ISBA/27/A/L.1). Delegates agreed to remove two agenda items on: the election to fill a vacancy on the Finance Committee since

there was no vacancy; and the report on the implementation of the strategic plan and high-level ISA action plan for 2019-2023, as this would form part of the report of the Secretary-General.

CHILE, supported by COSTA RICA, SPAIN, and BRAZIL, reiterated its proposal to add a new agenda item. In a Note Verbale dated 25 July 2022 (ISBA/27/A/9), CHILE presented a proposal for a new Assembly agenda item, "Discussion of the issues relating to the triggering of the two-year timeline." The two-year timeline refers to a provision in Annex I, paragraph 15, of the 1994 Agreement relating to the implementation of Part XI of UNCLOS.

Paragraph 15 states that "if the Council has not completed the elaboration of the rules, regulations and procedures relating to exploitation" within two years following the request of a state who intends to apply for approval of a plan of work for exploitation, then the Council "shall nonetheless consider and provisionally approve such plan of work based on the provisions of the Convention and any rules, regulations, and procedures that the Council may have adopted provisionally, or on the basis of the norms contained in the Convention and the terms and principles contained in this Annex as well as the principle of non-discrimination among contractors." On 25 June 2021, Nauru submitted such a request, in connection with its contractor Nauru Ocean Resources Inc. (NORI).

Acting President Guyonvarch outlined the relevant rules of procedure on submission of new agenda items, noting that no additional item may be considered until seven days have elapsed after it has been placed on the agenda, unless the Assembly decides otherwise by a two-thirds majority. He added that the proposal is only available in English since translation would require 13 days.

CHILE, supported by COSTA RICA, SPAIN, and BRAZIL, urged addressing the issue, noting that the addition of the agenda item would enable a discussion on the matter to prepare for a decision at a later stage.

NAURU opposed the addition of the agenda item, expressing that the proposal was submitted late and "is at best surprising and will likely derail significant progress."

The UK queried the urgency of addressing the proposed item, and whether the proposal complies with the rules of procedure. Although recognizing the proposal intends to open discussion on the matter, TONGA expressed uneasiness about insufficient time to consider it.

Acting President Guyonvarch deferred the issue to the incoming presidency.

On Tuesday, following a Bureau meeting and relevant legal advice, newly elected Acting President Olav Myklebust (Norway), noted that for the item to be formally placed on the agenda a two-thirds majority would be required. Noting the desire to reach consensus, he said consultations would continue.

On Wednesday, CHILE stated that holding a secret vote, as per the rules of procedure, would go against the spirit of consensus aspired to by the Assembly, and asked the Acting President to instead hear interventions on this under the agenda item "other matters." This was agreed.

The Assembly adopted the provisional agenda.

Election of President and Vice-Presidents: On Monday, Bangladesh, for the ASIA-PACIFIC, nominated Satyendra Prasad, Ambassador and Permanent Representative of Fiji, as Assembly President for the 27th session. Mexico, Norway, and Ghana were

nominated as Vice-Presidents with a further nomination pending from the Eastern European Group. All nominees were elected by acclamation. It was agreed that, in President Prasad's absence, Vice President Myklebust would serve as the Acting President for the Assembly.

Credentials Committee: Delegates approved as members of the Credentials Committee the following countries: the Bahamas, India, Italy, Lesotho, the Netherlands, the Philippines, South Africa, and Trinidad and Tobago, with further nominations pending from the Eastern European Group.

On Wednesday, Credentials Committee Chair Amanda Fraser (Trinidad and Tobago) presented the report of the credentials committee (ISBA/27/A/12), which delegates approved.

Consideration of requests for observer status: On Monday, delegates considered and approved requests for observer status by the Interamerican Association for Environmental Defense, Cluster Maritime Français, the Ocean Foundation, Oceans North, and the World Organization of Dredging Associations (ISBA/27/A/INF/1-5).

Statement by the Council President on the Work of the Council

On [Monday](#), ISA Council President Tomasz Abramowski (Poland) summarized the work of the Council during the 27th session (ISBA/27/C/21 and ISBA/27/C/21/Add.1), highlighting progress made during the first two parts of the session (21 March – 1 April 2022 and 18-29 July 2022), held in a hybrid format.

Delegates took note of the report, pointing towards next steps, including the need to operationalize the Enterprise and the Economic Planning Commission, and develop binding thresholds for the protection of the marine environment.

Annual Report of the Secretary-General

On Tuesday, Secretary-General Lodge presented his annual report to the Assembly (ISBA/27/A/2 and Add.1), focusing on activities under ISA's Strategic Plan 2019-2023. He also reported on the implementation of the action plan of the Authority in support of the UN Decade of Ocean Science for Sustainable Development (ISBA/27/A/4) and the Authority's capacity development strategy (ISBA/27/A/5).

Member States addressed the report on [Tuesday](#) and [Wednesday](#). Many delegates expressed appreciation for ISA's work, and lauded the Secretariat for achieving important tasks, including initiatives towards gender equality and women's empowerment as well as efforts to support least developed countries, landlocked developing countries, and small island developing states.

Interventions focused on: the role of ISA in a global context; the promotion of marine scientific research in the Area; building capacity for developing states and ensuring their full and effective participation in the Authority's work; ensuring transparency; and the development of the exploitation regulations and related environmental concerns.

Capacity development strategy: Delegates addressed the capacity development strategy on Wednesday, highlighting the importance of training programmes and capacity building, and noting the strategy takes into account the needs of developing countries in an inclusive way and will guide ISA's future work. The Assembly adopted the capacity development strategy.

Final Decision: In the document on the capacity development strategy (ISBA/27/A/5), to which the decision and the strategy are annexed, the Assembly:

- welcomes the nomination of national focal points for capacity development;
- adopts the capacity development strategy;
- requests the Secretary-General to implement the strategy; and
- encourages all stakeholders to contribute to implementation.

The capacity development strategy sets out high-level objectives for capacity development, and identifies five interrelated key result areas and outputs for each. The key result areas are:

- ensuring capacity development programmes and activities are meaningful, tangible, efficient, effective, and targeted at the needs of developing countries, as identified by them;
- establishing and furthering strategic partnerships in support of capacity development;
- strengthening institutional capacities through technology transfer and technical assistance;
- advancing women's empowerment and leadership in deep sea-related disciplines through targeted capacity development activities; and
- improving deep-sea literacy through better awareness and understanding of the legal regime of the Area and the role and mandate of the Authority.

The strategy furthermore addresses implementation, monitoring, evaluation, and learning, identifying the Authority as responsible for implementation and for updating the Assembly on progress through annual reports.

Financial Matters

On [Wednesday](#), Acting President Myklebust opened discussions on financial matters. He introduced the report of the Finance Committee (ISBA/27/A/8 and ISBA/27/C/36) and the proposed ISA budget (ISBA/27/A/3/Add.1/Rev.1 and ISBA/27/C/22/Add.1/Rev.1), along with the Council decision on financial and budgetary matters (ISBA/27/C/40), referring especially to its recommendations to the Assembly. He invited the Assembly to consider the relevant draft decision (ISBA/27/A/L.2).

The discussion focused on: auditing for future financial periods; the regulatory powers and inspection mechanism of the Compliance Assurance and Regulatory Management Unit; and the non-inclusion of the Enterprise in the budget. The Assembly adopted the decision.

Acting President Myklebust further invited delegates to consider 15 nominations for seats on the Finance Committee for the next five-year period (ISBA/27/A/7 and ISBA/27/A/Add.1). Delegates elected all 15 candidates nominated.

Final Decision: The Assembly approves the budget for the financial period 2023-2024 of USD 22,256,000, as proposed by the Secretary-General. The Assembly further authorizes him: to establish the scale of assessments for 2023 and 2024 on the basis of the scale used for the regular budget of the United Nations for the period 2022-2024, taking into account that the maximum assessment rate will be 22% and the minimum rate 0.01%; to transfer between sections and programmes up to 15% of the amount of each section or programme; and to establish the International Seabed Authority Partnership Fund as a trust fund of the Authority. The Assembly

further urges the members of the Authority to pay their assessed contributions to the budget as soon as possible and in full; and calls on ISA members with outstanding contributions to the budget of the Authority, including from the period 1998-2021, to pay them as soon as possible, to enable the Authority to deliver effectively on its mandate.

Elections to Fill Vacancies on the Council

On Thursday, Acting President Myklebust introduced the draft decision (ISBA/27/A/L.3), which includes the nominations to fill the vacancies in the ISA Council for a four-year period from 2023-2026.

Delegates adopted the draft decision, electing the new members.

Final Decision: In the final decision (ISBA/27/A/L.3), the Assembly elects the following to fill the vacancies in the Council, subject to the understandings reached in the regional and interest groups: Italy and the Russian Federation (Group A); France, Germany, and the Republic of Korea (Group B); Australia and Chile (Group C); Fiji, Jamaica, and Lesotho (Group D); and Cameroon, Ghana, Indonesia, Mexico, Nigeria, Sierra Leone, Singapore, and Tonga (Group E).

Other Matters

Proposal by Belgium to amend Rule 82: On [Wednesday](#), the Assembly discussed a proposal by Belgium relating to proposed amendments to Rule 82 of the rules of procedure of the Assembly (ISBA/27/A/6), which stipulates who may participate as observers in the ISA Assembly. BELGIUM suggested allowing "representatives of entities having obtained a contract with the Authority" as well as the Enterprise to obtain observer status at the ISA, giving "industry, including the Enterprise, the same rights as non-governmental organizations (NGOs) and civil society."

Some Member States expressed concerns, including over potential conflicts of interest. Others supported the proposal, noting that rules to avoid conflicts of interest could be adopted. Yet others suggested amending the proposal to invite "industry bodies representing entities having obtained a contract from the ISA," rather than the individual contractors, to apply for observer status. Observers cautioned against inviting individual contractors as observers, underscoring that contractors "should be the regulated, not the regulators" and "should be controlled by sponsoring states, not the other way around."

On [Thursday](#), the Assembly noted that consensus could not be reached, neither about amending the rules of procedure, nor about establishing a relevant Committee as required by Rule 97. Acting President Myklebust suggested, and delegates agreed, to note in his report of the session that the Assembly discussed the item and agreed to revert to it at a later stage.

Proposal by Chile to discuss the two-year timeline: On [Thursday](#), delegates exchanged opinions on the activation of the two-year timeline, following the request by Nauru in 2021.

Some Member States suggested a pause on consideration of exploitation plans to allow for the accumulation of scientific knowledge on deep sea marine ecosystems to inform decision making. Many delegates opined that if the regulations are unfinished after two years have passed, the Council is not required to adopt them, expressing concerns about working on such an important issue under time pressure.

Some Member States pointed to various legal uncertainties around the two-year timeline, noting that an advisory opinion by the International Tribunal for the Law of the Sea (ITLOS) should be considered. Other delegates urged the need to study the implications of the two-year timeline and discuss “what if” scenarios at the next Council meeting.

Observers expressed strong concerns over the two-year timeline not allowing sufficient time to conclude the negotiations on the exploitation regulations, risking irreversible harm to marine ecosystems and biodiversity loss. They reminded Member States of the call for a moratorium on deep seabed mining, by, among others, the UN Ocean Conference at Lisbon and the International Union for Conservation of Nature (IUCN).

Dates of the Next Session of the Assembly

On [Thursday](#), Acting President Myklebust noted: the next session of the Assembly would be held from 24-28 July 2023; sessions of the LTC would meet from 6-10 March 2023 and 26 June – 7 July 2023; the Finance Committee would meet from 5-7 July 2023; and the Council would meet for its first session from 13 March – 1 April 2023 and its second session from 10-21 July 2023.

Delegates debated whether the Assembly’s meeting could be moved, so that it be held after the first session of the Council ends in April 2023, adding that, if necessary, an additional meeting could take place after the second Council meeting in July 2023.

The Assembly agreed to take note of the current dates and to leave open the option of requesting a special session after the Council meeting in November 2022.

Special Session to Commemorate the 40th Anniversary of the Adoption of UNCLOS

On [Monday afternoon](#), a special session was held to commemorate the 40th anniversary of the adoption of UNCLOS.

Delegates emphasized that UNCLOS provides a comprehensive legal framework for all activities in the ocean, serving as a “Constitution for the Ocean,” and establishing the principle of common heritage of humankind. They highlighted the Convention’s role as an integral part of the global system for peace and security, offering a basis for cooperation and collaboration among states, setting up rights and obligations, and balancing interests of coastal, vessel, and landlocked states. Many Member States highlighted: the blue economy approach; the three UNCLOS institutions, namely ITLOS, the Commission on the Limits of the Continental Shelf, and ISA; and the importance of ongoing negotiations for a new implementing agreement on biodiversity beyond national jurisdiction (BBNJ) and protected areas.

Closing Session

JAMAICA thanked delegates for their understanding regarding the temporary venue and looked forward hosting delegates again soon. Acting President Myklebust thanked all who facilitated and participated in the meeting and gaveled the meeting to a close at 1:21 pm on Thursday, 4 August 2022.

A Brief Analysis of the ISA-27 Assembly

“Will we be able to look our children in the eye and assure them that we have done all that was possible to defend the common heritage of mankind?” – Constanza Figueroa Sepúlveda, Representative of Chile, during the discussion on the two-year timeline

As Sepúlveda’s statement illustrates, the 27th session of the Assembly of the International Seabed Authority (ISA-27) was eventful and, at times, tense. This has not always been the case for meetings of the Assembly, the ISA’s main political organ mandated to establish general policies. As most of the work on the development of the exploitation regulations, which is currently the main task at hand for the Authority, is done by the Council and the Legal and Technical Commission (LTC), sessions of the Assembly tend to be largely procedural.

Not this time. As the work of the Authority and the potential for commercial exploitation of mineral resources of the deep seabed is attracting growing interest, the Assembly could not have remained immune—and substantive discussions on the timeline for the development of the regulations permeated most of its deliberations. Participants agreed that the stakes are high and the task challenging. Developing a set of rules, regulations, and procedures to regulate exploitation of mineral resources in the Area (the seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction) “for the benefit of humankind as a whole,” balancing competing interests and ensuring effective environmental protection is, by no means, an easy task. At the same time, the ocean and the environmental functions it provides, are vital for the planet’s balance and for human survival.

ISA-27 was also held under unusual conditions. Due to ongoing renovations at the Jamaica Conference Centre, the alternative venue did not provide the same negotiating environment. Observers were segregated from Member States in a basement “overflow” room and participants had to adapt to the circumstances over the course of the three weeks of Council and Assembly meetings. Some believed that the physical segregation carried a symbolism that transcended practicalities. These perceptions will hopefully be remedied soon, once the usual venue becomes available again.

The Assembly was able to finish its deliberations one day earlier than originally scheduled. However, at times, discussions heated up. This brief analysis will discuss the main outcomes of the deliberations during the ISA-27 Assembly, addressing the Authority’s activities during the last biennium and focusing on the contentious topics of discussion during the meeting.

Busy Days in Challenging Times

The annual report of the Secretary-General, which included an overview of progress on the implementation of the Authority’s strategic plan for 2019-2023, provided the opportunity to showcase the ISA’s activities and partnerships in their full breadth. The report revealed an Authority that, despite the challenges related to the global COVID-19 pandemic, is engaged in multiple streams of work, with an impressive list of collaborations and partnerships.

In a global context, the Authority has participated in a number of high-level meetings and processes related to the ocean, and has connected its work to the Sustainable Development Goals (SDGs)

and the UN Decade of Ocean Science for Sustainable Development (2021-2030). The ISA has established strategic alliances and partnerships with sub-regional, regional, and global organizations, including a memorandum of understanding with the African Union, highlighted during the meeting.

Other notable streams of work and collaborations relate to marine scientific research, the empowerment and leadership of women in marine scientific research, and capacity development. The Authority also highlighted its efforts in public information and outreach to disseminate its work and mandate, as well as the international legal regime for the ocean and the Area, both to the wider public and to its Member States and representatives of UN agencies as a capacity-building effort, drawing attention to its e-learning platform Deep Dive.

The Elephant in the Room

The issue of the “two-year timeline” was introduced to the discussions in a proposal to include an additional agenda item. Although the topic never found its path to the agenda as a free-standing issue, it was discussed under “other matters.” The two-year timeline refers to a provision in the 1994 Agreement relating to the implementation of the UN Convention on the Law of the Sea (UNCLOS) Part XI (the Area). The provision notes that if the Council has not completed the elaboration of the regulations relating to exploitation within two years following the request of a state who intends to apply for approval of a plan of work for exploitation, then the Council “shall nonetheless consider and provisionally approve such plan of work” based on the provisions of the Convention and any rules, that the Council may have adopted provisionally. On 25 June 2021, Nauru submitted such a request, in connection with its contractor Nauru Ocean Resources Inc.

Half-way into the two-year timeline, and with the draft exploitation regulations far from completion, it was high time for the deadline to be considered, according to many delegates, with some questioning why no specific agenda item on this had been foreseen or agreed to, and why it took until the last session of the week to open discussion on such an important issue.

What was clear before, and is now on the record, is that many Member States share concerns about the two-year timeline and want to debate its legal implications. Even more so, many recognize that more time is needed to consider all implications. As it stands, the next Assembly meeting in late July 2023 is scheduled to take place after the expiry of the two-year timeline. Some suggested holding the 28th Assembly session earlier in 2023 and back-to-back with the first scheduled Council meeting or as a special session.

During the discussions, a number of Member States floated the idea of seeking an advisory opinion from the International Tribunal for the Law of the Sea (ITLOS) when the time is right, with many noting that these important negotiations should not be pressured by a deadline and exploitation should not proceed until comprehensive regulations are finalized.

There were also calls for a pause in the negotiations in line with the precautionary approach to ensure scientific, legal, and socio-economic uncertainties can be addressed first. Some suggested a more wholesome debate would also help ISA align more with other ocean-related processes, such as the negotiations on an international

agreement on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (BBNJ), which are entering their final stage in New York, and the Convention on Biological Diversity (CBD) and its long-standing programme of work on marine and coastal biodiversity.

The need for further alignment with other ocean-related processes was further noted by some delegates in relation to the stark contrast in tone and approach between the ISA meetings and the recent UN Ocean Conference, held in Lisbon, Portugal. There, the meeting was dominated by stark reminders of the crisis that the ocean, and alongside it all life on Earth, faces, most prominently by UN Secretary-General António Guterres. At the Assembly meeting, notwithstanding the calls to ensure protection and preservation of marine ecosystems, the same sense of urgency was not conveyed.

In addition, many participants at the UN Ocean Conference, including some ISA Member States less vocal at the Assembly meeting, called for a moratorium on deep seabed mining. The proposal for a moratorium on deep seabed mining is not a new one but has been gaining ground as an increasing number of governments, organizations, and individuals stress the need to study deep sea ecosystems, subscribing to oceanographer Sylvia Earle’s remark that “the greatest discovery perhaps of the 20th century about the ocean was discovering the magnitude of our ignorance.”

Some delegates noted that the idea of a “precautionary pause” might serve as a middle ground, rooted in core legal principles, between expediting deep seabed mining and establishing a moratorium. Others pointed to ISA’s existing mandate to develop exploitation regulations, stressing the importance of developing regulations that are so comprehensive that they fully enshrine the precautionary approach and articulate the common heritage of humankind in line with today’s knowledge about the ocean crisis and the need to preserve the ocean for future generations.

Transparency and Inclusivity, for Whom?

The discussion on the two-year timeline was not the only contentious item. Delegates were confronted with further procedural controversies before the short week came to an end. One of these concerned a proposal to amend Rule 82 of the rules of procedure to allow individual contractors, namely private companies and others who have signed exploration contracts for deep seabed minerals with the Authority, to gain observer status at the Assembly and Council. The proposal’s proponent highlighted the need for transparency and inclusivity, and for all stakeholders to be able to participate in the Authority’s work to support “informed decisions.”

Some Member States supported the proposal, but it was largely met with skepticism and concern. Other delegates pointed to potential conflicts of interest, suggesting the participation of industry associations rather than individual contractors, thus diffusing “any conflict of interest in the representative body rather than being concentrated in a single voice.” Observers were quick to note that contractors can already participate as observers through industry associations, leading to the question of whether an amendment to the rules of procedure is even necessary.

Observers from environmental non-governmental organizations were particularly unimpressed by the proposal, opposing it strongly. “This is not about transparency, it’s about the role of contractors

at the ISA,” stated one, emphasizing that contractors “should be the regulated, not the regulators.” A series of interventions from observers stressed that contractors would unduly influence decision making, as well as issues of liability.

Although delegates decided to revert to the proposal at a later stage, reaching consensus on such an amendment will not be an easy task as some Member States insist that it would be impossible to “bridge the diverse roles that we, as Member States, and contractors, as mostly private entities, have in the Authority’s work.”

The Way Forward

Despite all their disagreements, participants at ISA-27 agreed on one thing. While 2022 with its many ocean-related conferences has been of crucial importance for advancing the debate around effective ocean governance, 2023 may prove to be an even more critical year, especially regarding the approach to deep seabed mining.

The decisions that the organs of the Authority, including the Assembly, take in the near future are of critical importance, and many delegates seemed cognizant of the weight on their shoulders. Forthcoming decisions in this and other fora will determine to a great extent the future of our ocean, humankind and, for that matter, all life on Earth.

Upcoming Meetings

BBNJ IGC-5: This session will continue to negotiate, and possibly agree on, an international legally binding instrument under the UN Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. **dates:** 15-26 August 2022 **location:** UN Headquarters, New York **www:** un.org/bbnj

World Water Week 2022: Organized by the Stockholm International Water Institute, World Water Week 2022 will be held on the theme “Seeing the Unseen: The Value of Water,” and is built on a global need to not only see but also to understand the value of water. **dates:** 23 August – 1 September 2022 **location:** Stockholm, Sweden, and virtual **www:** worldwaterweek.org

IWA World Water Congress and Exhibition—Water for smart, liveable cities: The World Water Congress and Exhibition will report on the water sector’s progress to achieve the Sustainable Development Goals (SDGs). The emphasis will be on SDG 6 on water and sanitation. The event will also highlight and explore the interwoven relationship of water with all 17 SDGs. **date:** 22 September 2022 **location:** Copenhagen, Denmark **www:** unhabitat.org/events/iwa-world-water-congress-and-exhibition-water-for-smart-liveable-cities

Women in the Law of the Sea Conference: The ISA Secretariat is hosting this three-day conference aimed at highlighting the important contributions of women to the development and implementation of the law of the sea, the participation of women in the institutions created by UNCLOS and related regional and sub-regional organizations and the pathways to enhancing the potential for women to contribute to the law of the sea in the future. **dates:** 26-28 September 2022 **location:** New York, US, and virtual **www:** isa.org.jm/event/women-law-sea-conference

ISA Council (Part III): This meeting will continue to discuss items on its agenda, including draft regulations on exploitation of mineral resources in the Area and the status of contracts for exploration and related matters, including information on the periodic review of the implementation of approved plans of work for exploration. **dates:** 31 October – 11 November 2022 **location:** Kingston, Jamaica **www:** isa.org.jm/node/20798/#block-media-2

UN Climate Change Conference: The 27th session of the Conference of the Parties (COP-27) to the UN Framework Convention on Climate Change, the 17th meeting of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP 17), and the fourth meeting of the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA 4) will begin work on the Global Stocktake, among other matters. **dates:** 6-18 November 2022 **location:** Sharm El-Sheikh, Egypt **www:** unfccc.int/cop27

Plastics INC-1: The first meeting of the Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, is tentatively scheduled to begin its work. **dates:** 28 November – 2 December 2022 (TBC) **location:** Uruguay **www:** unep.org/events/unep-event/Intergovernmental-Negotiating-Committee-end-plastic-pollution

UN Biodiversity Conference (CBD COP 15): This meeting includes the 15th meeting of the Conference of the Parties (COP) to the CBD, the 10th meeting of the COP serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety, and the 4th meeting of the COP serving as the Meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing. The meetings will be preceded by the fifth meeting of the Open-ended Working Group on the Post-2020 Global Biodiversity Framework (WG2020-5), to be held from 3-5 December 2022. The meetings will review the achievement and delivery of the CBD’s Strategic Plan for Biodiversity 2011-2020 and take a final decision on the post-2020 global biodiversity framework, among other matters. **dates:** 3-19 December 2022 **location:** Montreal, Canada **www:** cbd.int/meetings

ISA Assembly 28th Session: The Assembly meeting will address issues of general policy for the Authority, including the budget. A special session of the Assembly may be called upon request of Member States following Part III of the 27th session Council meeting in November 2022. **dates:** 24-28 July 2023 **location:** Kingston, Jamaica **www:** isa.org.jm

For additional upcoming events, see sdg.iisd.org

Glossary

Area	Seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction
BBNJ	Biodiversity of areas beyond national jurisdiction
ISA	International Seabed Authority
ITLOS	International Tribunal for the Law of the Sea
LTC	Legal and Technical Commission
UNCLOS	UN Convention on the Law of the Sea