

13 June 2011



**TWENTY-FIRST MEETING OF STATES PARTIES TO THE UNITED NATIONS
CONVENTION ON THE LAW OF THE SEA**

13 June 2011

REPORTED BY
THE SECRETARY-GENERAL OF THE INTERNATIONAL SEABED AUTHORITY

.....

Mr President,

I am grateful once again for this opportunity to provide States Parties with information on the work of the International Seabed Authority.

Mr President,

As you will be aware, the seventeenth session of the Authority will be held in Kingston from 11 to 22 July. I wish to use this opportunity to brief States Parties on some of the most important issues that will be taken up during the forthcoming session, which is likely to be one of the busiest for a number of years.

First, however, I would to touch upon the event which dominated the work of the Secretariat of the Authority during the second half of 2010, and that is the advisory proceedings before the Seabed Disputes Chamber. As you will recall, the advisory proceedings were instituted by the Council of the Authority pursuant to article 191 of the Convention in response to a proposal originally submitted by the delegation of Nauru. The Chamber was requested to provide an advisory opinion on three legal questions relating to the obligations and responsibilities of States sponsoring activities in the Area.

The opinion, which was delivered in February 2011, proved to be a milestone not only in the life of the Authority but also in the Law of the Sea. It provides important clarification of some of the more difficult aspects of the Convention and the 1994 Agreement. The universal reaction to the opinion, including from academia, members of the Authority, and the seabed mining industry, has been positive, in that it has provided much-needed certainty in the interpretation of the obligations and responsibilities of sponsoring States under the Convention and the Agreement. This is an encouraging sign for the Authority and its member States, not least because it suggests that the commercial sector is developing confidence in the legal regime for the orderly development of the resources of the Area that has been put in place over the past 13 years.

Mr President,

I should like to use this opportunity on behalf of the Authority to express our appreciation to the President of the Seabed Disputes Chamber, Judge Treves, and his colleagues, for the expeditious, diligent and transparent manner in which the advisory proceedings were conducted. I also wish to acknowledge the contributions of the 15 States Parties, as well as the intergovernmental and non-governmental organizations, that made written or oral statements to the Chamber. These contributions not only enriched the proceedings, but also demonstrated the strong commitment of States Parties to ensuring the integrity and resilience of the Convention regime. I look forward to further discussion of the implications of the Chamber's opinion during the forthcoming session of the Authority.

Mr President,

Turning to the seventeenth session, I wish to remind States Parties that, in order to encourage the best possible attendance, the Assembly and Council will hold their first meetings on Tuesday 12 July, thus allowing delegations additional time to arrive in Kingston. The Finance Committee will commence its meetings on 12 July, whilst the

Legal and Technical Commission will commence its meetings one week prior to the main session of the Authority, from 4 to 8 July.

I wish to remind States Parties that it is the turn of the Asian Group to nominate a candidate for the Presidency of the Assembly. It is the turn of the Eastern European Group to nominate a candidate for the Presidency of the Council. In accordance with the usual practice, it is the turn of the Group of African States to designate the member of the Council that will participate in the deliberations without the right to vote in 2011 in order to achieve equitable geographical representation in the Council. I urge the regional groups concerned to consult on these matters prior to the opening of the session.

A number of important issues are to be discussed and decided during the session.

First, elections will take place for members of the Legal and Technical Commission and for the Finance Committee for the period 2012 to 2016. One of the peculiarities of the Convention is that, rather than creating a system of rotation, whereby continuity of membership can be assured, the entire membership of the Commission and the Committee is elected at five-year intervals. Since a number of long-serving members of these bodies have already served the maximum permitted number of terms, the forthcoming elections are particularly significant. In the case of the Legal and Technical Commission, the election is especially important as the Commission is moving into a new, more substantive and technical, phase of its work and the new membership will have a long-term impact on the future work of the Authority.

Recognizing the importance of managing the election process effectively and efficiently, the Council had agreed on strict procedures for the elections. For the Legal and Technical Commission, the Council agreed that the nomination procedures and time limits it had previously adopted in 2007 (set out in document ISBA/13/C/6) must be applied strictly. In accordance with those procedures, in October 2010 I had issued an invitation to all members of the Authority to submit their nominations of candidates for election to the Commission, accompanied by a statement of qualification or curriculum vitae, by 25

January 2011. In light of changes to the dates of the seventeenth session that date was subsequently extended to 11 April 2011.

As directed by the Assembly, a similar invitation was issued with respect to nominations to the Finance Committee, with a closing date of 11 May 2011.

I am pleased to say that States Parties responded positively to the procedures they had adopted in this regard. The full list of candidates nominated to both the Legal and Technical Commission and the Finance Committee has been circulated to States Parties and is also available on the Authority's website. We will also make copies of the lists available this week.

Mr President,

The most important substantive issue to be considered during the forthcoming session will be the consideration of four pending applications for exploration contracts in the Area. To put this in perspective, the Authority has issued eight such contracts since its establishment in 1994, seven of which were 'grandfathered' in under the provisions of resolution II of the UNCLOS III and the 1994 Agreement.

We now have four new applications to consider, including two applications for exploration of reserved areas by private sector entities sponsored by developing States. These are the first such applications to have been made and, as such, represent a new milestone in the life of the Authority and for the regime for deep seabed mining under the Convention and the 1994 Agreement.

The other two applications pending consideration are sponsored by China and the Russian Federation respectively. These applications are also ground-breaking in nature, as they represent the first applications to have been made for contracts for exploration for polymetallic sulphides, a new type of mineral resource for which regulations were adopted by the Authority in 2010.

Mr President, the fact of these applications, combined with a significantly increased interest on the part of private sector mining companies and deep ocean technology companies in participating in the seminars and workshops organized by the Authority, indicates a renewed commercial interest in deep seabed mining as an alternative source for the minerals that are needed to fuel economic development in many parts of the world. This is encouraging both for the Authority and for member States, who will be the ultimate beneficiaries from seabed mining. It remains the case, however, that investments that originate from the private sector will inevitably be guided largely by financial considerations, including the impacts of national taxation, payments to the Authority and debt financing. The responsibility of the Authority in these circumstances is to begin the process to develop fair and equitable policies and regulations for exploitation of marine minerals. This is a matter which needs to be addressed sooner rather than later.

At the same time, of course, the Authority is under increasing pressure to deliver an appropriate level of environmental protection for the Area. The Authority is a unique organization, in that it has the power to take necessary measures in accordance with the Convention, at a global scale, to ensure the protection of the marine environment from harmful effects arising from activities in the Area. The measures currently under consideration by the Authority in this regard – which will be considered during the forthcoming session – include proposals for an environmental management plan at the regional scale for the CCZ and proposals for the management of chemosynthetic environments in the global ocean. A critical factor in these efforts is the need for better science in order to better understand the deep sea environment, including more data and improved standardization of data, especially relating to taxonomy. Whilst the Area and the high seas are subject to different legal regimes, clearly set out in the Convention and the 1994 Agreement, the two areas are physically interrelated. It is vital, therefore, that efforts by States and competent organizations to better manage threats to biodiversity on the high seas are coordinated with the efforts being undertaken by the Authority for the Area.

Mr President,

A matter of persistent concern to many States Parties is that there are still 21 members of the Authority that became parties to the Convention prior to the adoption of the 1994 Agreement but have not yet become parties to that Agreement. Although members of the Authority which are not parties to the 1994 Agreement necessarily participate in the work of the Authority under arrangements based on that Agreement, becoming a party to the Agreement would remove an incongruity that currently exists for those States. For this reason, each year since 1998, at the request of the Assembly, I have circulated a letter to all members in this position, urging them to consider becoming parties to the 1994 Agreement. In this regard also, operative paragraph 3 of General Assembly resolution 65/71, calls upon all States to become parties to both the Convention and the Agreement in order to achieve the goal of universal participation in the two instruments.

I would like to take this opportunity once again to encourage all those members of the Authority that are not yet parties to the 1994 Agreement to become parties at the earliest possible opportunity.

Finally, Mr President,

I wish to take this opportunity to report on the status of contributions to the budget of the Authority. As of 31 May, 58.6 per cent of the value of the contributions to the 2011 budget due from members of the Authority and the European Union had been received. This is encouraging, although I would like to remind States Parties that contributions are payable in full by 31 January in each year, and I would urge those that have not yet paid their assessed contributions for 2011 to do as soon as possible.

Mr President,

Regrettably, I also have to report that, as at 31 May, 43 members of the Authority were in arrears of contributions for a period of two years or more. The full list of these members

is reported in my annual report, an advance copy of which is available on the Authority's website. I very much hope that those States Parties that are in arrears of their contributions can remedy this situation before July, especially since the Convention provides that one of the consequences of non-payment of contributions for a period of two years or more is that the member concerned shall have no vote.

I thank you for the opportunity to make this statement and I look forward to seeing all members of the Authority in Kingston in July.