



UNITED NATIONS
**OCEAN
CONFERENCE**

LISBON
27 JUNE -
1 JULY
2022

Interactive Dialogue 7

Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of The Sea

Lisbon, Portugal

30 June 2022

STATEMENT

by

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Forty years ago, in setting aside the seabed and ocean floor beyond national jurisdiction as the common heritage of humankind, to be managed through an international organization on the basis of equality between States, the international community embarked upon a unique experiment in international relations.

The vision at that time, was to ensure that a comprehensive legal regime would be in place to achieve the sustainable use of marine mineral resources of the Area for the benefit of all humanity. To that end, forty years ago, the international community decided to unite and to establish one intergovernmental organization with the exclusive and integrated mandate to regulate access and use of the seabed minerals of the Area whilst ensuring that the environment is protected from any potential serious harm.

To concretise this vision the International Seabed Authority has been equipped with a series of unique and complementary responsibilities including to promote and encourage marine scientific research in the Area and to coordinate the dissemination of this result when available. The Authority is also entrusted with the duty to develop programmes and activities for the training of personnel of developing States. Lastly, it is the responsibility of the Authority to agree on and operationalize a mechanism for the equitable sharing of benefits from activities carried out in the Area for the benefit of all humanity.

Forty years later, this vision has successfully concretized into a unique and unprecedented way.

The legal regime for the Area: backbone and essence of the global ocean governance

As I said recently in the General Assembly on the occasion of the celebration of the 40th anniversary of the adoption of the Convention, and during the last meeting of the States Parties to the Convention few days ago, the regime for the deep seabed lies at the heart of the entire system of global ocean governance under the Convention. It is its backbone and its essence.

Today this space is the frontier for cutting-edge marine science, technological innovation, and deep-sea exploration. The rich mineral deposits found on the sea floor and the biodiversity associated with them also create exciting opportunities for sustainable development. It is therefore with legitimate interest that many developing States parties to the Convention are looking to this unique governance architecture to support the rights that are recognized to them under international law.

The implementation of these rights together with ensuring the conservation and sustainable development of our shared ocean resources reflect the mandate of the Authority.

Contribution of the Authority to the 2030 Agenda and beyond

Since the Authority was established, 28 years ago, it has successfully delivered against the mandate assigned to it. In fact, it has delivered beyond most of the expectations.

It is therefore not surprising that an independent report on the contribution of the Authority to the 2030 Agenda, commissioned last year and which went through extensive stakeholder consultations, concluded that the Authority already contributes to 12 of the 17 SDGs. At the center of it is the recognition of the role of the Authority as a neutral platform for collective deliberation and related trade-offs leading to joint decision-making based on consensus building for the co-management of the global commons in a way that ensure sustainability, equity and transparency.

Through its core mandate and the overarching and increasing support received by its members as well as other relevant stakeholders, the Authority has achieved four important objectives:

First, it steadily contributes to the development of international law by progressively establishing a sound, comprehensive and universally accepted legal regime based on best available science and the precautionary approach.

The success of this endeavor is reflected primarily in the fact that no there has been no unilateral claim, even though some States remain outside the regime established under the Convention and the 1994 Agreement.

It is also reflected in the fact that through the Authority, access to these resources is assured to both developed and developing States, rich and poor, large and small. No other resources on the planet is managed in this way

As of today, the Authority has approved a total of 31 contracts for exploitation to 21 different States including 11 developing States and five SIDS.

Second, through the development and implementation of a set of rules and standards governing deep-seabed mining and related activities, including marine scientific research in the Area, the international community can balance the imperative need for resource extraction with the preservation of the marine environment. This even before the industry starts.

Particularly relevant for this dialogue, is the fact that as of today, the Authority is the only intergovernmental organization with a clear and universally accepted mandate to ensure the effective protection of the marine environment and the conservation of marine biodiversity in areas beyond national jurisdictions. It is also the only organization which has effectively implemented globally measures in ABNJ in that respect.

Since 2012, the Authority is implementing regional environmental management plans in the Area. These are currently one of the most comprehensive management tools through which it is possible to address competing usages through a three-dimensional environment being the surface, the water column and the seabed.

It started in the Clarion Clipperton Zone, in the Pacific Ocean and last year, after an extensive scientific review of this plan, members of the Authority decided to confirm the approach undertaken and approved an extension of the areas of particular environmental interest (APEIs) where no mining will never be allowed.

This network of 13 APEIs is now covering 1.97 million square kilometers. In effect, this makes it the largest existing marine protected area in the ocean and by far, in areas beyond national jurisdictions. This is unprecedented and without any doubt an important lesson learnt that could inform current discussions for the adoption of a legally binding instrument for the sustainable use and conservation of marine biodiversity beyond national jurisdictions.

Third, data and information generated over more than 40 years through exploration for minerals resources in the Area have extensively contributed to increase the global knowledge of the deep sea and its environment. Far from damaging marine ecosystems, the intensive exploration work undertaken continues to represent today the main source of knowledge of the deep-sea which also plays a critical role in informing the development of evolving rules governing activities in the Area.

Building on this, the Authority is now focusing its efforts on the development of rules and standards for seabed mining. The draft regulations are very far advanced and have already had the benefit of detailed expert scrutiny by the Legal and Technical Commission, as well as the widest possible public consultation. At this stage, we are way beyond general principles, and it is anticipated to see the Council of the Authority in a position to make important progress at its next meetings in two weeks from now.

Concluding remarks

It is not an understatement to say that the regime for the deep seabed, implemented through the Authority, is one of the most complex and ambitious systems of global governance that humanity has yet devised.

At its core is the collective vision of the importance of protecting the most precious global commons which at the same time represents a significant challenge for the international community and a test for multilateralism.

Whilst we must acknowledge that the pressures on the marine environment, which are created because of our dependence on the resources provided by the ocean are real, the prospects for sustainable development

offered by this new frontier, which is the common heritage of all humankind are enormous. Reconciling these positions presents an acute challenge for effective governance and management.

At a time when the international community reflects on how to strengthen multilateralism and cooperation and as we convey this week in Lisbon for this second UN Ocean Conference to discuss how can collectively reinforce the commitment made 40 years ago to the Convention allow me to share few suggestions:

- First, it is essential that the balance of rights recognized to different States in light of their different capacities and needs be maintained. I specifically want to recognize the challenges faced by LDCs, LLDCs and SIDS in benefiting fully from the rights recognized to them in the Convention.
- Second, we should also avoid being complacent. The Convention is a fundamental part of the rules based international order that has ensured peace at sea for 40 years and we should not take it for granted.
- Third, it is critical that States take a consistent approach to implementation of the provisions of the Convention. Each chapter of the Convention is an integral part of the whole. Its provisions reflect the ecological unity of the ocean and are carefully designed to respond to the interests of all States, including developing States. We cannot pick and choose different elements depending on the circumstances and the interests of particular constituencies. At the national level, better coordination and cooperation between different sectoral interests is essential.
- Fourth, because the Convention is a dynamic treaty, it can adapt to the new challenges of our time. It is flexible and remarkably modern. For that reason, it is essential that States parties remain vigilant to ensure that all provisions of the Convention are implemented effectively and that the institutions mandated for this purpose are supported.

40 years later, we know much more and much better how important it is to ensure that all activities undertaken in the ocean be carried out with care and applying a precautionary approach

We also know that we are becoming more and more reliant on the ocean, particularly developing States whose rights to access ocean resources should be respected and even strengthened.

Our world as we know it today will depend on how collectively we can preserve this balance. The reality is that it would not be possible to achieve the Convention again today.
