



**Intergovernmental Conference on an international legally binding instrument
under the United Nations Convention on the Law of the Sea on the conservation
and sustainable use of marine biological diversity of areas beyond national
jurisdiction (General Assembly resolution 72/249)**

Fourth Meeting

Agenda item 5 - General Exchange of Views

15 March 2022

Statement by H.E. Michael W. Lodge

Secretary General of the International Seabed Authority

Thank you for the opportunity to make this statement to the fourth session of the IGC on behalf of the International Seabed Authority.

At the last meeting of the Assembly of the Authority, in December 2021, delegations acknowledged the importance of the participation of the ISA Secretariat in the meetings of the IGC. Several delegations also highlighted the importance of ensuring the consistency of any future BBNJ instrument with the Convention and the 1994 Agreement, and the need of ensuring harmonization, complementarity and coherence between the future BBNJ instrument and the work of ISA.

In this spirit, ISA is pleased to continue to offer its support to you Madame President and to the IGC as a whole and to continue to share relevant information on the activities of ISA.

It is therefore a pleasure to share this statement on some important developments within ISA that may be of relevance to the issues under discussion at the IGC.

Consistency with UNCLOS and the 1994 Agreement

General Assembly 72/249 provides that the mandate of the IGC is to elaborate the text of an international legally binding instrument under the United Nations Convention on the Law of the Sea. The General Assembly equally reaffirmed that that the work and results of the IGC should be fully consistent with the provisions of the Convention.

This is, of course, fully consistent with repeated resolutions of the General Assembly on oceans and the law of the sea, which every year emphasize *'the universal and unified character of the Convention, and [reaffirm] that the Convention sets out the legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional and global action and cooperation in the marine sector, and that its integrity needs to be maintained'*. The pre-eminence of UNCLOS as our global ocean treaty must be reinforced.

Resolution 72/249 also urged that any new instrument should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies. This includes the legal regime for the Area, which lies at the heart of the entire system of global ocean governance under the Convention.

The critical importance of the 1994 Agreement to the legal regime for the Area cannot be overstated. According to the Agreement, Part XI of the Convention and the Agreement are to be interpreted and applied as a single instrument. In the event of any inconsistency between the 1994 Agreement and Part XI, the provisions of the 1994 Agreement shall prevail.

In view of this legal relationship between the 1994 Agreement and the Convention, it may be worth considering the possibility that any agreement resulting from the IGC recognizes expressly that interconnection by referring also to the 1994 Agreement. Two possible opportunities to do so may be in the ambit of article 4(1), or, alternatively, within the text of the definition of the Convention found in article 1 related to the 'Use of terms.' This will promote that the interpretation and application of the agreement will be fully consistent with the Convention, including its Part XI relating to the Area.

Systematic approaches to Cooperation

Another aspect that was raised at the Assembly's meeting in December was the importance of cooperation and coordination. Intersectoral cooperation is clearly a critical element for effective management of biodiversity both within and beyond national jurisdiction. It is already mandated under the Convention and is taking place. In this regard, ISA has long standing and effective cooperative arrangements with other competent organizations, including those with specific regulatory competences on matters affecting ISA's mandate, such as IMO, and those who can support the implementation of ISA's mandate, such as the CBD and IOC-UNESCO (through OBIS), and very recently, WORMS.

ISA is also pleased to report significant progress over the past two years on the elaboration of effective area-based management tools for protection of biodiversity of the Area. In December 2021, the Council approved a recommendation of the Legal and Technical Commission to designate an additional four Areas of Particular Environmental Interest (APEIs) in the Clarion Clipperton Zone as part of the overall CCZ Environmental Management Plan. The designation of these additional APEIs, following an exhaustive and transparent international scientific process under the auspices of ISA, brings the total size of the area under protection to 1.97 million square kilometres and greatly improves the representativity and connectivity of the overall APEI network.

At the same time, considerable progress has been made in respect of the development of a regional environmental management plan for the northern Mid-Atlantic Ridge. Over the past two years, a draft plan has been developed through a systematic, strategic and collaborative process, using the best available scientific evidence and with full transparency. The draft plan will now be reviewed and considered by the Legal and Technical Commission in accordance with its mandate under the Convention.

Other regional environmental management plans will continue to be developed in accordance with the systematic, inclusive and transparent process endorsed by the Council.

Equity and sharing of benefits

The status of deep-sea mineral resources as the common heritage of mankind means that these resources must be exploited for the benefit of humankind as a whole. This concept is fundamental to the deep-sea mining regime under the Convention and the 1994 Agreement. In pursuance of this principle, UNCLOS requires ISA to provide for the equitable sharing of financial and other economic benefits on a non-discriminatory basis.

Over the past two and a half years, the Finance Committee of ISA has been studying this issue and in 2021 issued its first comprehensive report on the topic.¹ This report is supported by a technical study issued by the Secretariat and a briefing note for policymakers.

In addition to a comprehensive analysis of possible modalities for equitable sharing of monetary and non-monetary benefits, the Committee suggested that establishment of a global fund (Seabed Sustainability Fund) as an alternative or adjunct to direct distribution of monetary benefits and as an appropriate mechanism to address intergenerational equity. The Assembly has requested the Finance Committee to continue to develop its proposals, but I commend the work done so far to the attention of delegates attending IGC.

Capacity-building and training

Another core aspect of the ongoing work of ISA that is relevant to IGC relates to its duty to design and implement mechanisms to build capacity for developing States in accordance with its mandate under the Convention. This is recognized in the ISA Strategic Plan for the period 2019-2023.² Such mechanisms should aim not only at promoting and encouraging the transfer of technology to developing States but also at ensuring the expansion of opportunities for participation in activities in the Area in accordance with article 148 of the Convention.

To better understand the specific needs of developing States, in particular LDCs, LLDCs and SIDS, in relation to capacity development, the ISA Secretariat convened an international workshop on capacity development, resources and needs assessment in Kingston, Jamaica, in February 2020, and conducted also a survey, in which Members were invited to identify their priority capacity-development needs relating to the role and mandate given to ISA under the Convention. One of the key outcomes of the survey was that, out of those States that were not currently sponsoring activities in the Area, 89 percent indicated that their country had aspirations to engage in activities in the Area in the future and wished to develop capacity to do so. In view of the above process the Assembly adopted a decision on capacity development,³ in which it requested the Secretary-General to develop and implement a dedicated strategy for capacity development and explore options to mobilize additional resources to provide financial support for capacity development. Since then, member states

¹ ISBA/26/A/24-ISBA/26/C/39.

² ISBA/24/A/10, Annex

³ ISBA/26/A/18

have nominated a network of National Focal Points on Capacity Building (NAFOPS) which work closely with the Secretariat to conceive and implement capacity development activities.

Recently, the ISA issued a series of three publications – entitled ‘An Ocean of Opportunities’ – for the benefit of LDCs, LLDCs and SIDS, outlining to them the benefits of UNCLOS.

This progress demonstrates the adaptability of ISA in ensuring that it continues to meet the needs of its members and deliver tangible and meaningful services for present and future generations with the aim of ensuring excellence and innovation in delivery of its activities.

Conclusion

The legal regime for the deep seabed as exemplified in Part XI of the Convention, the 1994 Agreement and implemented through the rules, regulations and procedures of ISA, represents a clear vision of management of a shared commons based on principles of equity, informed decision-making, shared responsibility and accountability.

We look forward to working with all delegations to further reinforce our collective action to ensure that the legal framework of the Convention is respected and reinforced and that the mandates of the institutions created for its implementation are strengthened and not duplicated.

As always, I stand ready to discuss further with delegations how ISA can support, within its existing mandate, some of the responsibilities identified for the mechanisms that will be put in place to give life to this new agreement.