

## ISA-23 HIGHLIGHTS: THURSDAY, 17 AUGUST 2017

On Thursday, 17 August, the Assembly considered a draft decision on the final report of the first periodic review of the International Seabed Authority (ISA), and a further revised meeting schedule; adopted decisions on financial and budgetary matters and on revised staff regulations; and discussed other matters.

### ASSEMBLY

**PERIODIC REVIEW:** Secretary-General Lodge introduced a further revised meeting schedule for 2018-2019, confirming: the scheduling of additional Council meetings for 2018 and 2019; the integration of the suggestion from the Netherlands to reverse the order of the Legal and Technical Commission (LTC) and Council meetings, so that the Council can give more guidance to the LTC, which in turn will have more time for its work; the inclusion of tentative milestones for the various meetings; and a reference to the Finance Committee's preference for more flexibility on its meetings' length and frequency, depending on its workload. He also introduced a draft decision (ISBA/23/A/L.2), encapsulating all the 19 recommendations from the Review Committee, and the proposal to establish a voluntary fund to defray developing countries' participation costs related to additional Council meetings, noting its feasibility.

Review Committee Chair Tuerk stated that the LTC is "the master of its own procedures," and stressed the importance of: LTC working groups, especially on environmental matters; balanced expertise in the LTC; sharing and accessing environmental data, the promotion of marine scientific research in the Area, and effective engagement of the scientific community; the submission of a draft strategic plan by the Secretary-General for consideration in 2018; and the financial provisions on the ISA rules and regulations regarding benefit-sharing. He clarified that: the draft decision clusters the Review Committee's recommendations in a more reader-friendly way; the appointment of an interim director-general of the Enterprise is not advisable at present; new contracts need to be prescriptive; and a report to the Assembly on the status of contracts will be prepared at least once every five years. Brazil, for GRULAC, recommended inviting the Secretary-General to inform delegations on progress in developing the strategic plan. Poland, for the EASTERN EUROPEAN GROUP, noted a contradiction between the request to continue to address the question of operationalizing the Enterprise as an important matter and the decision against the appointment of an interim director-general at present.

Noting broad support for his proposal to establish a new voluntary trust fund, BELGIUM stated that a number of parties have already expressed interest in contributing. Algeria, for the AFRICAN GROUP, supported by BELGIUM, requested encouraging member states, observers and other stakeholders to contribute to the new voluntary fund. Requesting more time to consider the draft decision, Bangladesh, for the ASIA-PACIFIC GROUP, noted potential budgetary implications of the proposed meeting schedule, indicating that a decision may be taken after discussing the draft strategic plan in 2018. INDIA requested considering the item on Friday, 18 August to consult with capital. The EASTERN EUROPEAN GROUP expressed concern about the increasing cost of attending two Council meetings, noting that it will, however, accelerate decisionmaking, querying the Finance Committee's role on decisions that may have financial implications. GRULAC requested deleting references to the consultant that carried out the review, noting dissatisfaction with the methodology used. ARGENTINA emphasized that the original documents containing the final report of the Review Committee and the corresponding responses by the Secretary-General were circulated well in advance, requesting clarifications on the way the Assembly will proceed with its deliberations, including whether textual suggestions will be considered, and on the nature of consultations with capitals that some delegations asked for.

AUSTRALIA suggested ensuring broad participation from parties and observers in any additional workshops; and prioritizing greater environmental management and policy expertise at the Secretariat. The PEW CHARITABLE TRUSTS considered substantive achievements: the strategic plan; the circulation of non-confidential information; the new meeting schedule; the publication of draft regulations that combine exploitation, environmental and financial issues, and the relevant roadmap; and the new data-processing capacity. He renewed commitment to support: developing draft exploitation regulations; convening the ISA-sponsored workshops; and preparing new environmental management plans throughout all the mineral provinces under the ISA's control. The AFRICAN MINERAL DEVELOPMENT CENTER expressed appreciation for the ISA's capacity-building efforts, especially to the African Group, and announced a workshop to provide technical support to the African Group to ensure that the fiscal regime under development is fair, equitable and sustainable.

**Revised meeting schedule:** GERMANY expressed full support for the draft decision, especially the revised meeting schedule. AUSTRALIA suggested recognizing the increased workload at this time. NORWAY commented on the impracticality of having two consecutive LTC meetings before a Council meeting in summer

2018, cautioning against a heavy workload for the Council the following week; and, with AUSTRALIA, NEW ZEALAND and CANADA, underscored the need for timely preparation and document distribution. The ASIA-PACIFIC GROUP requested a clarification on the substantive agenda of the Council's meetings. The EASTERN EUROPEAN GROUP queried the Council's agenda for its 2019 meetings.

Secretary-General Lodge noted difficulty in further adjusting the meeting schedule and indicated that: the revised schedule has no budgetary implications; the Assembly will consider a new schedule in 2019; the Council meeting in spring 2018 will engage in in-depth discussions of the revisions to the draft regulations made by the LTC at this session, which have not been shared yet, and the results of the upcoming stakeholder consultation; the LTC needs to meet after spring 2018 to consider the contractors' reports; and the Council needs to proceed in parallel with the LTC to ensure a balanced and broadly acceptable result, while ensuring transparency in developing the regulations; and the reference to the LTC's increased workload requires further discussion.

Following regional consultations, delegates considered a revised draft decision (ISBA/23/A/L.2/Rev.1). CANADA welcomed an "implicit sunset clause" in the reference to the recognition of the ISA's increased workload "at this time," noting that the increase in meeting frequency will not be ongoing.

**Data management:** GERMANY suggested adding reference "to ensure adequate funding" regarding the implementation of a database. AUSTRALIA, supported by NEW ZEALAND, prioritized better environmental data provided by contractors. Secretary-General Lodge underscored the pre-eminence of environmental data in response to the decision on the implementation of a database and stated that most data relate to environmental variables.

**Draft exploitation regulations:** CHINA, supported by the AFRICAN GROUP, suggested: emphasizing the importance of universal participation, in particular developing countries' participation, in the development of rules and regulations on deep-sea mining; and encouraging the Secretary-General to enhance coordination and collaboration with other relevant international organizations, so as to ensure the rights of sponsoring states and contractors be effectively safeguarded, with NEW ZEALAND, supported by the AFRICAN GROUP, adding reference to "other relevant stakeholders."

**LTC:** The EASTERN EUROPEAN GROUP underscored encouraging the LTC to continue its practice of setting up working groups, stressing that all working groups' outcomes must be validated by the LTC as a whole. INDIA stressed that the LTC requires more time for the exploitation code.

GRULAC and the AFRICAN GROUP requested reference to their joint proposal on future elections of LTC members prior to the next election and no later than the 25th session. NORWAY, supported by the ASIA-PACIFIC GROUP, cautioned against adding elements that were not included in the review report. INDIA noted that the proposal had been introduced in the Council, which took note of the debate.

**Coordination and cooperation:** On encouraging the Secretary-General to enhance coordination and cooperation with other relevant international organizations, AUSTRALIA suggested adding "and other relevant stakeholders." The COOK ISLANDS questioned potential implications.

**FINANCIAL AND BUDGETARY MATTERS:** Finance Committee Chair Przybycin introduced the report of the Finance Committee (ISBA/23/A/8-ISBA/23/C/10); underscored the need to provide guidance to prioritize the use of limited funds; and confirmed, in connection with the revised meeting schedule, the

Secretary-General's comment on budgetary cost-neutrality, while drawing attention to the financial consequences for delegations and likely increased funding requests to the Voluntary Trust Fund. Delegates adopted a decision on financial and budgetary matters, acting on the recommendation of the Council (ISBA/23/A/L.4), without amendments.

**STAFF REGULATIONS:** Delegates adopted a decision on revised staff regulations, taking into account the Council's recommendations (ISBA/23/A/L.3), without amendments.

**CREDENTIALS COMMITTEE:** Credentials Committee Chair Ye Minn Thein (Myanmar) confirmed acceptance of the credentials of the representatives participating in the session. Delegates adopted a decision on credentials (ISBA/23/A/9) without amendments.

**OTHER MATTERS:** CHILE called attention to a written proposal jointly circulated with Ecuador and Panama, on "fundamental concerns," recommending that the Council and the Assembly instruct the LTC and the Secretariat to fulfil the ISA's mandate to regulate exploration and exploitation in the Area, so as to eliminate or minimize environmental impacts with efficiency and transparency. ECUADOR emphasized the aim of "zero impacts" on the marine environment. PANAMA prioritized creating an environmental affairs department in the Secretariat and adopting environmental management measures in light of the polluter-pays principle.

The AFRICAN GROUP proposed, and delegates agreed on, electing MOROCCO to the Council. The AFRICAN GROUP further suggested establishing a museum at the ISA, in the name of former Secretary-General Nii Allotey Odunton (Ghana), to raise awareness about the ISA's work. Many welcomed the proposal, with ARGENTINA, CANADA and others raising the issue of budgetary implications. CHINA, supported by BELGIUM, FRANCE, ECUADOR and the PHILIPPINES, suggested a two-step approach, by developing a report through a working group under the Finance Committee, and adopting an Assembly decision on where and when to establish the museum.

**OBSERVER STATUS:** The COOK ISLANDS asked whether the Secretariat had requested and obtained additional information from Earthworks about their observer status, and whether, in the absence of such information, the request would be declined or addressed at the next session.

### **IN THE BREEZEWAYS**

The extensive discussion of a draft Assembly decision on the first periodic review of the ISA came to many as a pleasant surprise. "I was worried that the Assembly would just take note of the periodic review report, rather than taking full ownership of each recommendation contained in it," a participant commented, hoping that this also bodes well for concrete follow-up actions and regular progress reports. "The decision also clearly shows that the Assembly is instructing the LTC to act upon the recommendations addressed to it," added an observer, hinting at the recommendation to hold open LTC meetings in the future. Recalling the remark in plenary that the "LTC is the master of its own procedures," however, a more skeptical delegate wondered about the LTC's room for maneuver in responding to requests from the ISA supreme body, including in giving consideration to the creation of an environmental working group. "Hopefully we needn't wait until the next LTC election for a renewed approach to transparency and environmental issues," another participant quipped.

**ENB SUMMARY AND ANALYSIS:** The *Earth Negotiations Bulletin* summary and analysis of the 23rd Annual Session of the International Seabed Authority will be available on Monday, 21 August 2017, online at: <http://enb.iisd.org/isa/2017/>