

Summary of the Twenty-fifth Annual Session of the International Seabed Authority (Second Part): 15-26 July 2019

The second part of the 25th annual session of the International Seabed Authority (ISA), which included meetings of the Authority's Council and Assembly, focused on the Authority's central consideration at this point in time: the development of the draft exploitation regulations on deep-seabed mining. These regulations, once concluded, will govern future activities in the world's oceans, yet will need to ensure environmental protection while simultaneously balancing stakeholders' interests. The sessions were successful in advancing, *inter alia*, calls for environmental protection in deep sea mining, operationalizing the Authority's Strategic Plan, and shaping the organizational culture towards more participation and transparency. The increasing interest in the Authority's work is testament to the increasing public awareness in deep sea mining.

In celebrating the 25th Anniversary of the ISA, delegates expressed their intention to "ensure a thorough and timely development of the regulations, bearing in mind that necessary standards and guidelines should be developed before their adoption." In addition, there were reminders through the Council meeting that "the regulations' development does not take place in a vacuum." They are influenced by the strategic direction of the Authority, which for the first time in its history has begun implementing a Strategic Plan. This Plan, in turn, decides the ISA's positioning in the global oceanic realm and in environmental governance. The regulations are also affected by its underlying culture, including considerations related to public participation and transparency. Deliberations in the Assembly offered useful insights into those directions.

The ISA was established as an autonomous institution under the 1982 United Nations Convention on the Law of the Sea (UNCLOS) to organize and control activities in the Area, particularly with a view to administering the resources of the Area. "The Area" is defined as the seabed and subsoil beyond the limits of national jurisdiction, and its "resources" as all solid, liquid, or gaseous mineral resources *in situ* in the Area at or beneath the seabed. Among other things, the ISA is mandated to provide for the necessary measures to ensure the effective protection for the marine environment from harmful effects, which may arise from mining activities in the Area.

During its 25th session, the Council delved into the draft exploitation regulations, submitted by the Legal and Technical Commission (LTC), addressing provisions on, *inter alia*:

- applications for approval of Plans of Work in the form of contracts;

- rights and obligations of contractors; and
- protection and preservation of the marine environment.

The Assembly considered the implementation of the Authority's Strategic Plan 2019-2023, including adoption of the High-Level Action Plan and the corresponding key performance indicators. The Assembly also adopted criteria and guidelines for applications for observer status in the work of the Authority.

Participants commemorated the 25th anniversary of the ISA with a special session on Thursday, 25 July, attracting national delegations from more than 70 countries.

The Council met from 15-19 July and the Assembly from 22-26 July in Kingston, Jamaica. These meetings were preceded by meetings of the LTC (1-12 July) and the Finance Committee (8-10 July).

A Brief History of the ISA

Origins of the International Seabed Authority

The 1982 United Nations Convention on the Law of the Sea, which entered into force on 16 November 1994, sets forth the rights and obligations of states regarding the use of the oceans, their resources, and the protection of the marine and coastal environment. UNCLOS established that "the Area" and its resources are the common heritage of humankind. "The Area" is defined as the seabed and subsoil beyond the limits of national jurisdiction, and its "resources" as all solid, liquid, or gaseous mineral resources *in situ* in the Area at or beneath the seabed, including polymetallic nodules. 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-

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Clipperton Zone (CCZ) beneath the Pacific Ocean. They contain nickel, copper, cobalt, and manganese, among other metals. Other minerals have since then 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 of 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 was established as 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, came into existence 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 for 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 LTC, and the Secretariat. The Assembly consists of all ISA members and has the power to: establish general policies; set the two-year 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); as well as 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 supervise and coordinate implementation of the Area regime.

The LTC is an organ of the Council and originally consisted of 24 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 was expanded to 30 Members at the 22nd session in 2016. 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 reports of the LTC to the Council are discussed during the annual sessions of the Authority.

The ISA has been developing the "Mining Code," which is the 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

23rd Session: At its 23rd session (8-15 August 2017), the Assembly discussed the final report of the first period review of the ISA and adopted decisions addressing transparency and environmental issues. The Council considered the first report of the Secretary-General on the implementation of the Council's decision adopted in 2016, and draft exploitation regulations. The draft exploitation regulations were open for stakeholder comment on the basis of a series of general and specific questions proposed by the Secretariat. The Council also adopted a decision on a revised meeting schedule to engender a mutually responsive dialogue between the Commission and the Council on the draft exploitation regulations.

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 for the Council (16-20 July 2018) and the Assembly (23-26 July), preceded by meetings of the LTC (2-13 July) and of 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; LTC's recommendations and guidelines; and broader environmental policy and regulations on exploitation. The Council further addressed the possible operationalization of the Enterprise and contractors' non-compliance issues. The Assembly considered the annual report of the Secretary-General and the proposed budget for 2019-2020, and adopted the Strategic Plan for 2019-2023, which consists of a mission statement, context and challenges, strategic directions, and expected outcomes. Many welcomed the Strategic Plan, which placed the ISA's mandate in the context of the Sustainable Development Goals (SDGs).

25th Session (first part): 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 Council made progress on the draft exploitation regulations, addressing, *inter alia*: standards, guidelines, and terms; decision-making; regional environmental management plans; and the inspection mechanism. It further considered the report on matters relating to the Enterprise, deciding to extend and expand the mandate of the Special Representative for the Enterprise.

Council Report

On Monday, 15 July, Lumka Yengeni (South Africa), Council President for the 25th session, opened the meeting. ISA Secretary-General Michael Lodge highlighted updates from the intersessional period, including the submission of the note and recommendations on the draft exploitation regulations by the LTC, the review of the action plan on standards and guidelines by the LTC and the corresponding workshop on standards and guidelines hosted by South Africa, and progress on the financial terms of contracts.

Consideration, with a View to Approval, of an Application for a Plan of Work

On Monday, Council President Yengeni introduced an application for a plan of work for exploration of polymetallic nodules by the Beijing Pioneer Hi-Tech Development Corporation, sponsored by China, in the western Pacific Ocean (ISBA/25/C/33). The Council approved the plan of work, with no objection.

Final Decision: In its final decision (ISBA/25/C/33), the Council approves the plan of work for exploration for polymetallic nodules submitted by the Beijing Pioneer Hi-Tech Development Corporation and requests that the Secretariat issue it in the form of a contract.

Draft Regulations for Exploitation of Mineral Resources in the Area

This agenda item was discussed from Monday to Wednesday in plenary, and briefly considered again on Friday.

Council President Yengeni opened the discussion on the draft exploitation regulations (ISBA/25/C/WP.1) and the LTC note (ISBA/25/C/18), also mentioning submissions by Belgium (ISBA/25/C/21), the African Group (ISBA/25/C/25), and Germany (ISBA/25/C/29). Making general comments, Germany, Jamaica, Tonga, France, Nauru, and others requested additional time to submit written comments on the draft exploitation guidelines, and for the next version to contain tracked changes, which was supported by the UK, Norway, China, France, and others. Nauru cautioned that the written submission process must follow a strict timetable. India called for a compilation of submissions to be made available on the ISA website. Noting, with Germany and others, that substantive suggestions from their written submission were missing from the draft, Jamaica further called for a formal discussion on the best way to proceed with future iterations of the draft regulations, stressing, with Poland, the need for the draft regulations to be in conformity with UNCLOS.

Germany, supported by Australia, proposed including reference to effective protection of the marine environment, equitable sharing of financial and economic benefits, and the SDGs. The African Group questioned the reference to the SDGs, which only extend to 2030, and called for a standalone regulation on fundamental principles as well as for more open meetings of the LTC to increase transparency and promote progress. Costa Rica, supported by the Deep Sea Conservation Coalition (DSCC), called for differentiating fundamental principles from policies.

Eden Charles, Special Representative for the Enterprise, suggested language on the effective participation of the Enterprise. Spain expressed concern on cumulative and potentially irreversible environmental impacts, proposing an additional reference to regional fisheries management organizations and alignment with terminology used at the biodiversity beyond national jurisdiction (BBNJ) intergovernmental conference.

South Africa expressed concerns over potential impact on the country's domestic economy resulting from a reduction of mineral resources caused by deep sea mining and called for an urgent scientific impact study.

Belgium highlighted expertise, independence, and transparency for ISA's decision-making process and, with Costa Rica, noted the importance of seeking external environmental expertise.

Costa Rica, supported by Australia, Japan, and DSCC, stressed the need to ensure ISA members and contractors "shall cooperate" with the Authority. DSCC underscored the need to maintain reference to conservation of natural resources in the Area, and stressed the importance of public participation.

Japan suggested relevant language from the Rio Declaration to clarify the application of the polluter pays principle, and called for the development of Serious Harm guidelines before the adoption of the draft regulations. Australia welcomed the explicit requirement for regional environmental management plans (REMPs), noting that they are not optional.

Secretary-General Lodge reflected that:

- the draft exploitation regulations are intended to implement the Convention's provisions;
- the Council's prior preference was to proceed with the development of standards and guidelines in parallel with the development of the exploitation regulations; and
- the LTC had finalized the draft exploitation regulations and the Council should decide on the way forward.

Jamaica stressed that, according to the LTC note, the Commission has a lot to contribute to the regulations, stressing the need to decide on the way forward, and underlined that ongoing negotiations related to BBNJ must respect the ISA's mandate. Bangladesh recalled lessons learned while adopting the exploration regulations, urging delegates to find a way forward.

Delegates then considered the text regulation by regulation, with the following parts of the document attracting comments.

Preamble: Norway, opposed by China, suggested reference to the UN Fish Stocks Agreement. The Institute for Advanced Sustainable Studies (IASS) proposed referring to Part XII of UNCLOS on the protection and preservation of the marine environment. The International Union for Conservation of Nature (IUCN) noted that the draft regulations were missing important marine conservation safeguards.

Part I: Introduction: Use of terms and scope: The Russian Federation suggested noting that the regulations apply to all three types of deep-sea minerals: polymetallic nodules, polymetallic sulfides and cobalt-rich ferromanganese crusts. China acknowledged the proposal, cautioning against doing so based on concurrent development of financial models for polymetallic nodules.

Germany called for clearly specifying "legally binding standards" and "non-binding guidelines." Chile emphasized that, prior to the approval of the exploitation regulations, their legal nature, as well as relevant standards and guidelines, have to be defined. Tonga queried whether market-based instruments related to the polluter pays principle could be included under the scope.

Fundamental policies and principles: Canada highlighted the need for an effective separation of activities between the regulator and the operator to avoid potential conflicts of interest.

Chile stressed that the polluter pays principle "does not have unequivocal interpretation." Italy underscored that it should not be founded solely in market-based instruments. Regarding the same principle, Japan, Italy, Canada, and China requested reference to the Rio Declaration.

Germany, with the Federated States of Micronesia (FSM), New Zealand, France, and IUCN, underlined the importance of

ensuring REMPs are adopted before exploitation is permitted. Mexico proposed including a precept to specify reparation and rehabilitation as an environmental obligation. China expressed caution, considering the varied stages of development of REMPs.

FSM called for inclusion of traditional and local knowledge in decision making.

Brazil suggested clarifying the term “harmful effects” and adding reference to the Economic Planning Commission. The African Group emphasized transparency. Chile, supported by Nauru, the US, China, New Zealand, and others, stressed that principles and policies should not be mixed as they differ in nature and application, requesting, with Mexico, clarification of their legal scope. Poland proposed a general list of elements, without denoting whether they are principles, approaches, or policies. FSM, with IUCN and IASS, supported a standalone regulation on fundamental principles.

The Pew Charitable Trusts called for: clarifying “ecosystem approach,” supported by the UK, and the polluter pays principle; and including in the regulations the need for “accountability and transparency in all aspects of ISA governance.”

Duty to cooperate and exchange information: Jamaica, Tonga, New Zealand, Nauru, the UK, and others stressed that member states and contractors have a clear obligation to cooperate with the Authority, rather than “use their best endeavors” to do so. The International Marine Minerals Society expressed concern relating to access to information from contractors, which may impinge on anti-trust regulations.

Protection measures in respect of coastal states: The Deep Ocean Stewardship Initiative (DOSI), with the Pew Charitable Trusts, emphasized the importance of determining what causes and constitutes “Serious Harm” to the marine environment, calling for an LTC-coordinated working group to develop binding standards.

FSM noted that the threshold of Serious Harm was too high for the coastal state, proposing, supported by Tonga and New Zealand, a two-step process, which includes a likely-harm trigger and a serious-harm trigger. IUCN stressed that the burden of Serious Harm should be placed on the contractor.

Tonga called for including a requirement to consult small island developing states (SIDS) and relevant states before exploitation is permitted. Chile emphasized the “legitimate interests” of coastal states in addition to their rights. Indonesia called for mechanisms for coastal states to request timely inspections in the event of an occurrence of visible pollution resulting in potential loss.

Part II: Applications for approval of Plans of Work in the form of contracts: Qualified applicants: Australia emphasized transparency in the application process. Germany proposed requirements for applicants pertinent to their ability to comply with environmental policies, and Italy suggested inclusion of the operator’s economic capacity.

Certificate of sponsorship: The African Group and others noted the need to define “effective control,” and Poland, with the Republic of Korea, called for legal clarity around the term.

Form of applications and information to accompany a Plan of Work: The African Group stressed the need to take into account, in addition to application-specific criteria, external factors that may be relevant to the final decision. Costa Rica emphasized that applicants should also comply with ISA standards, in addition to rules, regulations, and procedures.

Germany noted that prerequisites for Plans of Work should include successful test mining and a social impact statement, with Brazil adding a requirement for a feasibility plan, along with a

declaration by the operator that exploitation activities are not interfering with other activities in the marine environment.

Receipt, acknowledgement and safe custody of applications: The African Group, supported by Brazil, invited the LTC to reflect on the consistency of references to the Commission throughout the regulations. The UK noted that all relevant information on applications, other than of confidential nature, should be circulated by the Secretariat.

Preliminary review of application by the Secretary-General: Japan questioned whether operators who have not conducted exploration would qualify to submit exploitation Plans of Work. Poland requested clarification on what constitutes “satisfactory” performance.

Brazil proposed that the power to determine preference and priority of applicants be given to the Council, rather than the Secretary-General. China opined that the LTC should have such power, while Jamaica opted for either the Council or the LTC.

Publication and review of the Environmental Plans: Germany and the UK noted that all relevant information, in addition to the Environmental Plans, should be placed on the ISA website. Italy encouraged increasing the timeframe devoted to consultation as well as the response period for the applicants.

Australia and Costa Rica supported the Belgian proposal to include independent experts to advise the Commission. Spain noted that independent experts can ensure greater impartiality and promote legal certainty. Australia called for a cost-effective approach, which avoids conflicts of interest, while Argentina called for a mechanism for choosing experts, including from specialized organizations and bodies.

China requested clarification on the role of independent experts, querying whether a dual review process is envisaged. Germany, the UK, and others suggested an in-depth discussion on the role of independent experts at a later stage during the meeting.

General aspects of consideration of applications by the LTC: Costa Rica emphasized that the Plans of Work should “contribute to the benefit of humankind,” and that principles should not merely be taken into consideration, but should be observed and respected. China clarified that the Commission should account for relevant or related reports from the Secretary-General.

Assessment of applicants: Costa Rica emphasized the need for clear criteria and for the procedure to follow specific standards and guidelines, including REMP-related standards. Canada noted that the contractor would be in the best position to assess economic viability.

Australia, supported by Singapore, France, Tonga, and Nauru, emphasized reasonable regard and due diligence for submarine cables and pipelines. Concurring, the International Cable Protection Committee noted that sufficient safeguards in the draft regulations will minimize instances of damage and thus liability rules.

New Zealand stressed the need to expand on marine protection criteria for work plans. The Pew Charitable Trusts and FSM welcomed reference to best available techniques and best environmental practices. Germany proposed an additional regulation on the assessment of applications and Jamaica an additional criterion on assessing the history of operation of the contractor. Japan queried whether proposed guidelines on reasonable regard would apply to the assessment of applicants.

LTC’s recommendation for the approval of a Plan of Work: Brazil requested clarity on which entity would assess the monopolization of marine activities, querying whether the Council, LTC, or Economic Planning Commission would be charged with this. The UK suggested compliance with REMPs as

a condition for contract approval as well as the inclusion of Areas of Particular Environmental Interest.

FSM supported not approving plans where there is evidence of risk of Serious Harm, calling for this to be standardized in all relevant regulations. Chile called for clarification for cases in which impacts that have not been provided for in the current formulation are discovered.

Consideration and approval of Plans of Work: Costa Rica underscored that approval of an extension of a Plan of Work should not be automatic, calling for rigorous steps for applicants fulfilling a list of requirements.

Part III: Rights and obligations of contractors: Rights and exclusivity: Germany suggested clarifying that marine scientific research (MSR) is not limited by exclusivity rights. Costa Rica cautioned that eliminating text on the modifications of Plans of Work runs counter to the ability to analyze environmental damage. Chile suggested, *inter alia*, replacing “exclusive rights” with “preferential rights.”

The Republic of Korea and China cautioned against payments’ overlap, which may create a double burden for contractors.

Brazil emphasized the need to separate exploration and exploitation activities, stressing the importance of exploration as a prerequisite to the issuing of an exploitation contract. Japan called for exploitation guidelines before the finalization of the draft regulations. Australia suggested guidelines indicating when the exploration regulations shall continue to apply.

Joint arrangements: Special Representative for the Enterprise Charles noted that joint arrangements through the Enterprise shall have the same protection as contracts with the ISA “provided that in situations outlined in Section 2 paragraphs 2 and 5 of the 1994 Agreement, in relation to the Enterprise, such arrangements shall be by way of joint ventures only,” supported by the African Group, Jamaica, Norway, and others.

Term of exploitation contracts: Mexico suggested, supported by China, concrete ways to incentivize the participation of developing countries, including increasing the maximum initial term of an exploitation contract.

Germany proposed including a requirement that “the cumulative environmental impact does not exceed the thresholds set by pertinent REMPs and enables the achievement of strategic and local environmental objectives.”

Costa Rica, supported by DSCC and IASS, expressed concern regarding setting maximum initial terms of 30 years for exploitation contracts, preferring 15 years in line with the 1994 Agreement. She noted, supported by the UK and DSCC, that renewals of contracts should not be automatic or determined by the contractor, but rather considered by the Council, suggesting, with Jamaica and DSCC, performing an environmental impact assessment (EIA) prior to renewal.

Chile cautioned that, in cases of submission of a revised Plan of Work containing material changes, the LTC would not have adequate information on the contractor’s activities. Australia stressed that the entire Plan of Work should be reviewed at the point of renewal.

Termination of sponsorship: Germany requested clarification on the deletion of language related to the continuous responsibility of the contractor in the performance of its obligations. China requested clarification around the 12-month termination notice period. Jamaica queried the impact of termination to the sponsoring state, seeking to delineate legal rights and obligations. Australia, with Norway, suggested a written notice to the Secretary-General for sponsorship termination.

Transfer of rights and obligations: The African Group suggested taxing the potentially substantial profit to be gained from transfer of rights.

Change of control: Canada questioned the merit of interfering with a “commercial decision,” which requires a new contractor to meet obligations of the previous one. China, supported by Jamaica, Costa Rica, and DSCC, noted the challenge of uniformly interpreting a change “in 50% ownership,” calling for further review. Australia stressed that the Secretary-General should be notified in advance in cases of change of control.

Brazil noted that national laws and regulations on change of control differ. China expressed preference to reference “effective control.”

Documents to be submitted prior to production: Brazil proposed that feasibility studies become mandatory documents. The Center for Polar and Deep Ocean Development highlighted uncertainties on requirements for feasibility studies. Germany noted that revisions should be considered by the LTC and approved by the Council, with IASS calling for additionally involving independent experts and stakeholders. IASS also stressed that a feasibility study should require an *in situ* mining operation test at full scale.

Environmental Performance Guarantee: Jamaica flagged the need for further discussion on objectives and a closure plan. Chile noted that the calculation of the Environmental Performance Guarantee should be approved by the Authority. China proposed that the Finance Committee be tasked with calculating the Guarantee amount, and submit it to the Council.

Japan noted that the approval of the Council should only be required in cases of a material change to the Environmental Plans. Australia and the UK called for further consideration of the issue.

Reduction or suspensions in production due to market conditions: The African Group reiterated the need to operationalize the Economic Planning Commission. China noted that in cases where production is suspended, royalty payments should be reduced.

Reasonable regard for other activities: France called for directives to be put in place to address cases in which submarine cables are set to be laid after an exploitation contract has been granted. Australia emphasized that national laws and regulations should be considered in addition to applicable standards for the protection of submarine cables, also calling for relevant liability clauses. She further highlighted, supported by the International Cable Protection Committee, the role of coastal and flag states.

Preventing and responding to incidents: China, supported by Costa Rica, called for notifications of incidents to be made “no more than 24 hours of the contractors’ awareness of the incident.”

Insurance: China noted that as the relevant insurance mechanism is yet to be developed, the Council could conduct a periodic review of this issue once the regulations come into effect.

Books, records, and samples: Costa Rica and the International Marine Minerals Society highlighted the need for the samples to be transferred to a research institution for further study at the end of the contract, and not discarded. Australia cautioned against watering down the requirement for contractors to keep samples.

Part IV: Protection and preservation of the marine environment: General obligations: FSM reiterated that a definition of “best environmental practices” should include traditional knowledge. Germany emphasized that accountability and transparency should be ensured, rather than promoted. International Marine Minerals Society noted that differentiated obligations for the Authority, the sponsoring state, and the contractor should be defined and implemented.

Development of environmental standards: FSM emphasized the need for the Authority to develop legally binding standards as soon as possible and, with Germany, called for inclusion of listings of standards. DOSI stressed the need for binding standards for, *inter alia*, risk assessments, EIAs, and monitoring.

Environmental management system: Singapore proposed the development of REMP guidelines to be used by contractors. France called for clarification on the distinct concepts of environment management systems and REMPs.

Environmental impact statement: Italy stressed that the regulation should reflect the entire EIA process, including public consultation. Spain suggested rewording the draft regulation to keep environmental impact statements relevant with existing REMPs.

Australia appreciated the increasing importance of data requirement for EIAs from the LTC, which can ensure the protection of the marine environment, allow transparency, and promote public confidence. Japan queried the meaning of “quality objectives” related to the biodiversity status in the Area, noting lack of relevant data.

The African Group requested that inputs of stakeholders be reinserted into the scoping phase. Germany recommended legally binding monitoring strategies conducted by third parties to evaluate impact. He cautioned against finalizing the regulations ahead of the adoption of relative standards, posing a threat to future legitimacy of licenses.

The Convention on Biological Diversity (CBD) encouraged reference to existing voluntary guidelines and relevant work by the CBD. DSCC called for further clarity on who will carry out relevant assessments.

Environmental Management and Monitoring Plan (EMMP): Germany called for a fixed period of monitoring and harmonization with applicable standards, urging for inclusion of adaptive management strategies.

Restriction on mining discharges: Spain and the International Marine Minerals Society suggested reference to the London Convention and its 1996 Protocol. FSM suggested assessments and mitigation measures.

Performance assessments of the EMMP: South Africa, supported by Australia, FSM, DSCC, and others, called for an annual performance assessment. The UK highlighted the need to ensure compliance with the EMMP in the annual report. DSCC stressed that the performance assessment should be independent of the contractor.

Reporting on outcomes from informal consultations on Friday, the African Group suggested, and delegates agreed, *inter alia*, that:

- the Council take up the development of the draft exploitation regulations, with the option to refer technical matters to the LTC in the future; and
- proposals be compiled, using tracked- changes, by the Secretariat.

Financial Model

Olav Myklebust (Norway), Chair of the open-ended Working Group on the financial model, reported on the outcomes of the Working Group’s second meeting (ISBA/25/C/32), held from 11-12 July 2019. He highlighted, *inter alia*: divergence on the three options for payment mechanism proposed by the Massachusetts Institute of Technology (MIT) report, namely a fixed rate royalty mechanism, an *ad-valorem* only royalty, and a combined profit-based system; and options for setting up an environment fund.

Many delegates welcomed the recommendations, including reconvening the Working Group. Chile stressed that discussions need to continue, cautioning against subjecting the deliberations to a deadline.

Brazil, for the Latin American and Caribbean Group (GRULAC), supported by Tonga, suggested holding future meetings of the Working Group during Council sessions to bolster participation. The African Group, the UK, Costa Rica, and others expressed flexibility, stressing the importance of increased participation. Brazil and Costa Rica called for actively involving the Special Representative of the Enterprise in the discussion on the financial model.

Tonga expressed support for the fixed rate *ad-valorem* royalty option; suggested further consideration of the rates for the environmental fund; and stressed that for a sufficient review to be undertaken, a set implementation period must be explicitly clear in the draft regulations.

The African Group introduced two non-papers on possible payment regimes for consideration by the ISA Council.

Special Representative for the Enterprise Charles stressed: the importance of compensating the resource owner, in this case the whole of humanity; the need to compensate first-mover contractors in seabed mining, taking into account their investment risk; the need to take into account environmental effects; and the importance of reviewing the payment mechanism to ensure the model is up-to-date in the future.

China supported a combination of royalty and profit-sharing, reflecting the variability of metal prices, and taking into account contractors’ significant investments in the exploration and exploitation phases. The UK noted the need for a commercially viable set of regulations, expressing skepticism about the profit-based payment system.

Japan commented on the continued need to, *inter alia*: provide incentives to cover risks for pioneer activities in deep-seabed mining, with India; and ensure that current modelling is only applied to polymetallic nodules, with other resources considered separately. India emphasized the difficulty in forecasting future metal prices and drew attention to the unique characteristics of resources in the Indian Ocean.

Singapore suggested an initial fixed rate as the first stage, followed by an *ad-valorem* system pegged to mineral market prices. The Russian Federation opted for a two-tier progressive royalty mechanism; highlighted scientific research as part of environmental protections; and called for clarifying how the financial indicators will be integrated in the exploitation regulations.

Mexico called for a dedicated environmental compensation fund. Costa Rica called for more time and information to consider relevant payment rates and urged discussion on the payment regime for environment compensation, including the use of the environmental compensation fund.

China, India, Nauru, and others stressed that due consideration must be given to pioneer contractors, who undertake significant financial risks. Nauru supported a progressive *ad-valorem* royalty system tied to metal prices.

DSCC and others stressed the importance of an environmental liability fund, noting that it is separate from the sustainability fund and cannot be funded from exploitation proceeds alone. The Interoceanmetal Joint Organization stated that the models provide clarification on the manner in which deep sea mining could be structured. Mining Standards International stressed the need for further assessment of the assumptions underpinning the models and underlined the need for market-regulated royalties.

Final Outcome: The Council approved the Working Group's recommendations (ISBA/25/C/32), agreeing to convene a third meeting of the Working Group and request the Secretariat to develop a new model, including a progressive, *ad-valorem* royalty, to be considered at the next meeting of the Working Group

Report on the Implementation of the Decision of the Council in 2018 Relating to the Reports of the Chair of the LTC

On Monday, Secretary-General Lodge introduced the report (ISBA/25/C/12/Add.1), highlighting, *inter alia*: technical details to be discussed regarding transparency of exploration contracts; contractors' fulfillment of revised annual overhead fees and voluntary contributions; and several workshops planned to facilitate the development and review of REMPs.

Italy, Belgium, the UK, Australia, and others, welcomed progress on the draft regulations for exploitation, the development of REMPs, and the data management strategy.

The African Group, with Italy, Chile, and others, welcomed steps taken to increase transparency of contractors' activities. The African Group further requested that member states be included in the creation of a template for public disclosure.

Costa Rica called for additional information on contractors' acceptance of requirements associated with increased transparency. DSCC emphasized the need for transparency in contracts, calling for revisiting the release of contracts issued in light of difficulties experienced with the template for public disclosure.

On a data management strategy, Brazil and Chile requested clarification on which other databases will be linked to the ISA database.

Jamaica, Chile, and Italy noted the role of workshops as a key element in developing draft regulations on exploitation. Jamaica called for livestreaming REMPs workshops to include more participants, supported by Canada and DSCC, and emphasized, with the FSM, the need to further clarify how the outcomes of the workshops feed into the work of the LTC and the Council. Brazil stressed that the outcomes of REMPs workshops are non-binding.

Germany, supported by Belgium, Australia, the Pew Charitable Trusts, and others, presented suggestions for best practices for future work of the Authority (ISBA/25/C/27), highlighting: that if a decision on prolonging the 26th session is taken, there is a need to clarify its modalities; proposals for future drafts on exploitation regulations; and guidelines for the structure of work for the LTC.

Belgium, supported by the Pew Charitable Trusts and DSCC, called for a more inclusive process, tapping on the expertise of parties and involving independent experts in working groups to be created to develop prioritized standards and guidelines. India called for REMPs workshops for the Indian Ocean in addition to the Pacific's CCZ, and, with China, expressed reservations on the inclusion of independent environmental experts given the mandate of the LTC as an expert body under the ISA.

The UK called for greater participation in the REMP workshop for the North-West Pacific, emphasizing, with the FSM and Fiji, effective attendance of regional coastal states. FSM called for standardizing the results of the workshops on REMPs. China called on the Secretariat to ensure that all stakeholders receive information of planned REMPs workshops.

Canada suggested that REMPs could identify Areas of Particular Environmental Concern; and drew attention to his country's environmental assessment process in the oil sector,

including consultation with indigenous peoples, noting that this could be considered best practice.

In response, Secretary-General Lodge highlighted, *inter alia*:

- the need for sensitivity in addressing legally-binding signed contracts;
- appreciation for suggestions from Germany and Belgium on working practices;
- the need for further elaboration on how workshops' outputs will be treated by the LTC and the Council; and
- prioritization of relevant participation in workshops with dedicated financial support.

The Council took note of the report.

Report of the LTC Chair on the Work of the Commission at the Second Part of its 25th Session

This item was discussed on Wednesday and Thursday. LTC Chair Michelle Walker (Jamaica) presented her report from the 25th session of the Commission, which was held in two parts in March and July 2019 (ISBA/25/C/19 and ISBA/25/C/19/Add.1). She highlighted, *inter alia*:

- activities of the contractors;
- regulatory activities of the Authority;
- review and development of REMPs;
- implementation of the data management strategy; and
- issues relating to the Enterprise.

Germany, Brazil, Chile, FSM, Costa Rica, and Italy stressed the thorough examination of the Mining Code as a priority over "self-imposed" deadlines.

On the adoption of a set of guidelines and standards, Germany emphasized that their objectives are too crucial to leave to the charge of the Secretariat, preferring they be discussed by the Council and the LTC. Chile underscored that standards and guidelines should be binding.

The African Group posed questions regarding when open meetings of the LTC will commence and implications for non-compliant contractors. Tonga and Italy supported the recommendation for the Secretary-General to follow up immediately with those contractors, along with their respective sponsoring states. Norway expressed concerns over a few contractors repeatedly performing inadequately against an approved plan of work.

Italy reiterated that exploration contracts should be a mandatory prerequisite to exploitation. Costa Rica called for involving independent experts in the development of guidelines and standards.

Responding to questions posed by delegates, LTC Chair Walker noted concern about the 2020 deadline for the finalization of the draft exploitation regulations, and cautioned that contractors who do not follow the reporting template may affect data collection and impact stakeholders' access to information.

The African Group called for additional consultation on the LTC report. Jamaica urged that "procedure is as important as substance," strongly cautioning against Plans of Work for exploitation being authorized without sufficient environmental safeguards determined through standards and guidelines.

Encouraging all participants to confront challenges "with confidence rather than cynicism and doubt," Nauru emphasized the importance of the reporting template for data collection and called for, supported by the UK, the development of standards and guidelines following a clear timeline. Nauru added that the draft exploitation regulations have had a long period of gestation and there has been more than ample time for all stakeholders to offer their comments, stressing that the LTC has fulfilled its

mandate and urging “a degree of pragmatism” in the Council’s deliberations.

On standards and guidelines, the UK, Australia, and others supported that standards should be legally binding, and guidelines recommendatory in nature. Chile, Canada, Norway, and others noted that standards and guidelines need to be adopted before the entry into force of the draft exploitation regulations. Canada prioritized standards needing urgent development. The UK, Australia, Germany, Nauru, and others underscored the need for public consultation in the development of environmental goals, objectives, and principles.

New Zealand prioritized the draft exploitation regulations’ quality over deadlines, with Japan, Indonesia, Germany, France, Norway, Australia, Brazil, IUCN, and others; and stressed that environmental goals and principles related to the standards and guidelines should be subject to Council approval. India called for more work on the draft exploitation regulations before adoption. Japan underlined the need to balance commercial exploitation with environmental protection.

On annual contractor reports, the UK called for a distinction between substantial and procedural non-compliance, emphasizing the importance of communication. He further underscored the critical role of evidence-based, robust methods to understand environmental impacts in the development of the Mining Code. Jamaica, France, and Norway proposed that, in cases of non-compliance, contractors be made aware of the existence of effective means to hold them accountable.

Germany and the African Group supported the Belgian proposal on a mechanism for an independent review of environmental plans, ensuring scientific expertise and equitable geographic distribution. The African Group emphasized the importance of a mechanism that safeguards the independence of experts. China questioned the role and place of external experts vis-à-vis the proposed technical working groups in the development of the standards and guidelines; and called for clarification on the experts’ appointment process.

Germany and Belgium emphasized the lack of a clear procedure for stakeholder consultation in the evaluation of an EIA by the LTC. Emphasizing transparency and inclusivity, Canada highlighted remote methods adopted by the LTC to conduct its work, with France, and expressed concern over allowing contractual obligations to supersede obligations to the Authority.

Argentina highlighted that the Council could continue negotiations on the draft exploitation regulations, taking into consideration both the Council discussions as well as written submissions. Norway called for more intersessional work and clarity on next steps.

Noting that the Secretariat has played an “overly executive function,” the Pew Charitable Trusts encouraged a revitalized partnership approach for the proposed REMPs workshop; and called on the LTC to name non-compliant contractors and related sponsoring states.

IASS, DOSI, and IUCN supported the inclusion of external scientific experts in the review of guidance for contractors, suggesting that, to promote transparency, the names and inputs of these experts should be published and that wider consultation should be pursued to engage with a wider range of expertise.

IUCN reiterated that the precautionary principle impels an urgent gathering of additional scientific information, further tests of the potential environmental impacts, and further modelling to understand the implications of these impacts.

LTC Chair Walker clarified that the determination of appropriate mechanisms for the list of indicative guidelines will be forwarded to the technical working groups. She noted

that the LTC works according to the mandate agreed by the Council, which includes a 2020 deadline for finalizing the draft exploitation regulations, and will continue to do so unless the Council adjusts its earlier decision. On consultation mechanisms, she pointed to the opportunity for all stakeholders to provide written comments.

Reporting on outcomes from informal consultations on Friday, the African Group suggested, *inter alia*, that the meeting days of the Council remain the same, sequencing the first session prior to the LTC to promote sequential coordination on technical matters.

Draft Decision on the Report of the LTC Chair: Delegates decided to continue discussions on a draft decision related to the report of the LTC Chair (ISBA/25/C/37) in an informal working group, facilitated by Australia and New Zealand.

Germany, supported by many, requested deleting duplicate reference to “standards and guidelines.” Costa Rica opined that all standards should be ready by the time of adoption of exploitation regulations, rather than a set of prioritized standards. Singapore emphasized that the prioritized list is an outcome of the Pretoria workshop, offering, with Norway and Jamaica, that continued development of standards can occur after adoption of the draft exploitation regulations. GRULAC supported the deletion of “priority” standards, underlining that workshop outcomes are not recommendations.

Singapore, supported by Costa Rica, proposed that “necessary” rather than “priority” standards and guidelines be developed before the adoption of the regulations.

On reporting requirements for contracts, India highlighted that not all infractions are equal, calling on the Secretariat to better engage with contractors to improve compliance, rather than submit relevant cases to the LTC. He further announced India’s willingness to host a workshop on REMPs in the Indian Ocean in 2020.

Regarding the submission of proposals and observations for the Secretariat to prepare a compilation, Belgium and DSCC queried whether all stakeholders may submit proposals, to which Co-Facilitator Australia responded affirmatively.

The Council adopted the draft decision amending it to refer to “necessary” standards and guidelines, as suggested by Singapore, and enabling all stakeholders to submit proposals and observations, as proposed by Belgium and DSCC.

Final Decision: In the final decision relating to the reports of the Chair of the LTC (ISBA/25/C/37), the ISA Council, *inter alia*:

- expresses its intention to ensure a thorough and timely development of the regulations, bearing in mind that necessary standards and guidelines should be developed before adoption of the regulations;
- decides that additional written comments on the draft exploitation regulations, including specific drafting suggestions, may be sent to the Secretariat no later than 15 October 2019;
- requests the Secretariat to prepare a compilation of the proposals and observations sent by Council members, other member states, and observers to be submitted by the President and published no later than 30 December 2019, for consideration by the Council at its next session;
- requests that the Secretary-General report to the Council on an annual basis, identifying instances of alleged non-compliance and the regulatory action recommended or to be taken in accordance with UNCLOS, the Agreement relating to the Implementation of UNCLOS Part XI and the regulations on prospecting and exploration, including any monetary penalties to be imposed by the Council, and invites the relevant sponsoring states to provide any information relating to such

non-compliance and measures taken to ensure compliance under an exploration contract, in accordance with UNCLOS Article 139 (responsibility to ensure compliance and liability for damage);

- stresses the need for all contractors to comply with their reporting requirements and to make their environmental data readily and publicly available, noting that the Authority needs all contractors to collect samples consistently and to fully report environmental and geological data in a digital format to support, *inter alia*, the development of REMPs;
- welcomes the Secretariat's progress towards the implementation of the data management strategy of the Authority, including public access to non-confidential data;
- notes with concern the sharp deficit in the Voluntary Trust Fund for the purpose of defraying the cost of participation of members of the LTC and of the Finance Committee from developing countries in meetings of the Commission and of the Committee, welcomes the contributions made, and urges additional contributions to the fund from members of the Authority, as well as other states, relevant international organizations, academic, scientific, and technical institutions, philanthropic organizations, corporations, and private individuals; and
- encourages the LTC to hold open meetings more frequently to allow for greater transparency in its work.

Election to Fill a Vacancy on the LTC

On Monday, delegates elected Erasmo Alonso Lara Cabrera (Mexico) to replace Alonso Francisco Martinez Ruiz (Mexico) on the LTC until 2021 (ISBA/25/C/23).

Issues Relating to the Election of Members of the LTC

On Friday, Secretary-General Lodge introduced a proposal by Belgium (ISBA/25/C/22) and a draft decision submitted by the African Group and GRULAC (ISBA/25/C/L.2) relating to the election of members of the LTC.

Belgium, supported by DOSI, stressed that its submission's objectives are to ensure that: the LTC's size and composition remains under the control of the Council; equitable regional representation is reached; and required expertise is present in the Commission. DOSI highlighted the need to include environmental expertise.

The Russian Federation stressed that the African Group/GRULAC draft decision is simple and comprehensive. Argentina and Costa Rica supported the African Group/GRULAC proposal, prioritizing geographical representation.

Australia, Italy, and Spain supported the Belgian proposal in its alignment with related provisions in UNCLOS Article 163 (organs of the Council). Italy noted prior calls by the LTC for more expertise related to marine biology, technology, and the economics of deep-sea mining. France noted that the size of the LTC is adequate and stressed the need to balance geographical representation and relevant expertise.

India noted that the number of diplomats and lawyers currently in the LTC outweighs the number of scientists; highlighted, with Bangladesh, the need to consider creating an Economic and Planning Commission as a separate entity from the LTC; and stressed that the membership of the LTC should not exceed 36.

Stressing that related discussions in the past have been tough, lengthy, and complicated, Germany urged further considering overarching questions, such as past procedures in dealing with lack of expertise and, supported by Bangladesh, Norway,

Singapore, the Russian Federation, and others, the LTC's opinion on current size and expertise, before addressing the details.

Highlighting the need for predictability, Norway and Singapore suggested that a decision on the LTC size be taken well in advance of an election, pointing in that regard to the Belgian proposal.

Singapore requested clarification on how the type of expertise and number of seats will be determined under the Belgian proposal. The Republic of Korea, on behalf of Asia-Pacific Group, with Norway, requested time for further consideration, proposing to defer a decision to the 26th Council meeting.

The African Group and GRULAC emphasized that if a decision is not taken at this meeting, the election of members of the LTC would need to be postponed from 2021 to 2022, stating that the Council would need to make a decision on the postponement of the election.

In the afternoon and following informal consultations, including with the Asia-Pacific Group, the African Group, supported by Costa Rica, proposed adopting ISBA/25/C/L.2.

India noted that they had not been consulted, and, with Norway, preferred deferring the consideration of the draft decision to the next meeting. Italy, with Germany and Norway, did not support the adoption of the African Group/GRULAC draft decision. Expressing disappointment, the African Group agreed to defer this discussion to the next meeting.

The African Group and GRULAC suggested that if a decision is taken to defer the item to the next session, it should be placed at the top of next meeting's agenda.

Final Outcome: The Council decided to defer the issue to its 26th session, placing it at the top of that meeting's agenda.

Report of the Chair of the Finance Committee

On Wednesday, Andrzej Przybycyn (Poland), Chair of the Finance Committee, presented his report (ISBA/25/A/10-ISBA/25/C/31). He highlighted, *inter alia*, the implementation of the budget for 2017-2018 and the status of the Working Capital Fund, and made recommendations to the Council. ISA Secretary-General Lodge underscored the need for member states to pay outstanding contributions and called for further contributions to the Voluntary Trust Funds.

On voluntary contributions, China noted their contribution of USD 70,000, with USD 20,000 earmarked for developing country participation. The UK reflected that while attendance has increased, active participation could be improved.

On cost-saving measures, China and Chile preferred onsite interpretation, while Singapore and Norway supported remote interpretation.

On the development of rules, regulations, and procedures for equitable benefit sharing, Tonga pointed to their non-paper on this issue. Argentina called for the Council to consider this topic at both its meetings in 2020.

Delegates took note of the report.

On Friday, the ISA Council began deliberations on the draft decision relating to financial and budgetary matters (ISBA/25/C/L.4), which was circulated after discussions on the draft report. China, with Chile and India, expressed concern on the use of remote simultaneous interpretation for the Assembly and the Council in 2020, suggesting deleting the relevant paragraph due to potential technical issues related to unreliable internet connection, quality of interpretation, and confidentiality matters. The African Group supported the deletion.

The Netherlands, France, and Brazil expressed flexibility regarding deletion of the paragraph, with Brazil recommending preparing a back-up plan for potential internet failures.

UK, supported by Canada, Germany, Mexico, Norway, and the Czech Republic, suggested stating that the Council recommends that “consideration is given to use of remote interpretation services,” citing cost-cutting considerations.

Adopting the draft decision, the Council decided to delete the reference to the use of remote simultaneous interpretation.

Final Decision: In the final decision (ISBA/25/C/34), taking into account the recommendations of the Finance Committee, the Council urges members to pay their assessed contributions to the budget in full and on time, and to make voluntary contributions. The Council further approves:

- an increase in the Working Capital Fund to be spread across two years;
- the terms of reference for the trust fund for extrabudgetary support for the ISA; and
- the terms of reference for the Voluntary Trust Fund to provide requisite funds to the Special Representative for the Enterprise.

National Legislation

On Monday, Alfonso Ascencio-Herrera, Legal Counsel and Deputy to the Secretary-General, introduced the document on laws, regulations, and administrative measures adopted by sponsoring states and other members of the ISA with respect to activities in the Area, and related matters, including a comparative study of existing national legislation (ISBA/25/C/24).

The African Group suggested that the ISA take the lead in setting rules and mechanisms that govern compensation for harm arising from seabed mining activities carried out beyond national jurisdiction. Indonesia stressed the need to ensure that national legislation is not in conflict with international law or ISA regulations.

The Council took note of the report.

Report on Matters Related to the Enterprise

This issue was discussed on Thursday and Friday. Eden Charles, Special Representative for the Enterprise, presented his report on matters related to the Enterprise (ISBA/25/C/26). He highlighted the study on issues related to the operationalization of the Enterprise, in particular on the legal, technical, and financial implications for the Authority and for parties to UNCLOS. He pointed out that the Enterprise, among other roles, is a vehicle to allow developing states to participate in seabed mining in the Area. He highlighted that in the absence of an official definition for “commercial principles,” the study has identified considerations based on the common heritage principle, autonomy of the Enterprise, cost-effectiveness, an evolutionary approach to operationalization, and commercial viability. Charles outlined the four phases identified to operationalize the Enterprise:

- reinforcement of current arrangement;
- appointment of an interim director general;
- period post-directive by the Council for the Enterprise’s independent functioning; and
- period immediately subsequent to the appointment of the director general.

The Bahamas supported the four-step approach to operationalize the Enterprise and endorsed the report’s recommendations. Japan, supported by Germany, stressed that many steps need to be taken for the Enterprise to become independent, noting that detailed discussion may be difficult at this stage.

The African Group, *inter alia*:

- underscored that the appointment of a director general to head the Enterprise was mandated by UNCLOS;

- noted that the extension of the mandate of the Special Representative and the appointment of an interim director general are not mutually exclusive options; and
- called on Poland to provide information on steps taken to resume talks on its joint venture proposal with the Enterprise.

Poland responded that the final regulations that govern the functioning of the Enterprise will influence relevant decisions, stressing the need to ensure that no legal and organizational gaps exist. Trinidad and Tobago said that the proposed joint venture with Poland should serve to operationalize the Enterprise. China suggested that progress in the negotiations on the proposed joint venture should be considered to clarify whether further recommendations on the operationalization of the Enterprise are necessary, emphasizing the need for the formulation of concrete procedures and standards for joint ventures. The Republic of Korea requested clarification on potentially garnering funds from contractors for the Enterprise, noting that this would be inconsistent with UNCLOS.

Bangladesh requested clarification on the financial implications of the operationalization of the Enterprise, with Belgium, and whether Canada’s 2012 proposed sponsorship for a joint venture was still valid.

Brazil, South Africa, Trinidad and Tobago, Singapore, Jamaica, France, and others supported extending the mandate for the Special Representative. France noted financial constraints for an extension due to arrears in the payment of contributions. The Republic of Korea expressed support for the Special Representative to assume the role of interim director general, urging for cost-effective options. India highlighted the financial burden already posed on contractors towards the operationalization of the Enterprise.

China noted that the LTC recommendation for a temporary appointment of an interim director general is “balanced, reasonable, and practical.” Brazil, for GRULAC, emphasized that the interim director general position can be created if it has no budgetary implications. Norway indicated that the appointment of an interim director general is premature without clarity on relevant budgetary consequences, pledging support for the continued work of the Special Representative through a USD 10,000 pledge to the Voluntary Trust Fund. Japan and Germany noted that an interim director general should be appointed from within the Authority’s staff, stressing that the creation of an additional post needs to be discussed in the Finance Committee. Singapore and China proposed that a decision be taken during the 26th ISA annual session regarding the interim director general.

Trinidad and Tobago supported the appointment of an interim director general in the near future. Argentina supported the creation of a new position, noting that the draft budget for 2020 should include the cost for creating such a post.

Special Representative Charles highlighted that further consideration of budgetary implications will be taken up in the 2020 session of the Finance Committee. Secretary-General Lodge clarified that the independent report was commissioned in response to a request made by the Council.

The African Group, supported by GRULAC and the UK, requested informal consultations before concluding deliberations. India expressed frustration that the programme of work introduced the draft exploitation regulations prior to important considerations regarding process, saying “any decision made in hurry and haste is not in the interest of anyone present in this hall” and calling for “due process with transparency.”

Italy, with Mexico, stated that the appointment of an interim director general is not advisable “at this time,” noting, with Bangladesh, the need to carefully examine the financial

implications. Mexico supported extending the mandate of the Special Representative.

Noting that since 2012 the Council has approved exploration contracts on the basis of their entering into a joint venture with the Enterprise in the absence of an interim director general, Jamaica stressed that the Council's inaction in the past does not relieve it from its obligations under UNCLOS and the 1994 Implementing Agreement, underlining that "the time is always ripe to do what is right." Concurring, Special Representative Charles called on Council members to consider the study in detail during the intersessional period so as to be able to take the best decision on this matter at the next meeting.

Secretary-General Lodge:

- noted that if a Secretariat staff member was to be appointed to take on the role of interim director general, the appointee may not be able to conduct the functions of the office due to conflict of interest concerns;
- expressed willingness to continue the current arrangements with the Special Representative, noting the need for contributions to the Voluntary Trust Fund to finance this position; and
- reminded delegations of the financial implications related to the establishment of the office of director general.

Noting that the LTC recommendations on the issue are pending, China suggested addressing the Committee's recommendations at the next Council session, prior to reaching any decision. Jamaica clarified that since the Secretariat cannot immediately create the post of interim director general, an extension of the Special Representative's contract should be considered.

Council President Yengeni introduced a draft decision (ISBA/25/C/CRP.4), requesting the Secretary-General, subject to the availability of requisite funds, to extend the contract and renew the terms of reference of the Special Representative, until the end of the 26th ISA session.

The African Group called for informal consultations to conclusively address this and other matters. Bangladesh and India opposed, referencing the Rules of Procedure. The Netherlands, with a few others, expressed preference to stay in session, underscoring time constraints.

India asked for clarification regarding "requisite funds," querying from which Authority's fund they will be derived. Secretary-General Lodge responded that the funds will be provided by the Voluntary Trust Fund. The African Group suggested deleting "subject to the availability of the requisite funds" and replacing it with "taking into account the importance of the availability of funds."

The Council adopted the draft decision with the amendment suggested by the African Group.

Final Decision: In the final decision on the Special Representative of the Secretary General of the ISA for the Enterprise (ISBA/25/C/36), the Council takes note of the report of the Special Representative of the Secretary-General for the Enterprise; and requests that the Secretary-General extend the contract and renew the terms of reference of the Special Representative until the end of ISA 26.

Pattern of Meetings for the Council and the LTC for 2020

On Friday, Secretary-General Lodge introduced a note on the pattern of meetings for the Council and the LTC for 2020 (ISBA/25/C/CRP.3.Rev.1). He recommended the most cost-efficient and flexible option, consisting of two sessions of seven and nine days for the work of the LTC and the Council respectively. He cautioned that the dates are not flexible, as they

are selected in advance in coordination with the Department for General Assembly and Conference Management. Delegates agreed that the next meetings of the Council and the LTC will be held between 17 February and 6 March 2020.

Other Matters

On Friday, ISA Legal Counsel and Deputy to the Secretary-General Alfonso Ascencio-Herrera introduced a draft decision on amendments to the ISA staff regulations (ISBA/25/C/28 – ISBA/25/A/9). Brazil and Bangladesh supported the proposal. The Council adopted the amendments.

Final Decision: In the final decision, the Council approves amendments to the ISA staff regulations, including changes in the retirement age, according to the date that a staff members joined the Authority and started to participate in the UN Joint Staff Pension Fund. The new amendments will come into effect on 1 October 2019.

Dates of the Next Session and Closure of the Meeting

On Friday, Secretary-General Lodge announced that the 2020 Council meetings will be held during the periods from 17 February to 6 March, and 6 to 31 July.

Council President Yengeni closed the meeting at 6:11 pm.

Assembly Report

On Monday, 22 July, Mariusz Orion Jędrysek (Poland), Assembly President for the 24th Session, opened the Assembly meeting. He emphasized that ISA's 25th anniversary provides an opportunity to reflect on what has been achieved, and look forward to "what we want to achieve in the next 25 years." Underscoring the importance of seabed mining, he stressed that "to save the Earth, we have to exploit metals from the ocean."

Election of the President and Adoption of the Agenda: Brazil, on behalf of GRULAC, nominated Kamina Johnson Smith, Minister of Foreign Affairs and Foreign Trade, Jamaica, as Assembly President for the 25th Session. She was elected by acclamation.

President Johnson Smith welcomed the increased global focus on ocean-related matters, especially SDG 14 (life below water). She outlined the draft decisions that the Assembly will discuss during the week, including on the implementation of the Authority's Strategic Plan 2019-2023.

Delegates adopted the agenda (ISBA/25/A/L.1/Rev.1), and appointed Ghana, Nauru, Poland, and Norway to the positions of Vice-Presidents.

Credentials Committee: Brazil, Canada, Czech Republic, Kenya, Myanmar, the Netherlands, the Russian Federation, Sri Lanka, and Togo were elected to the Credentials Committee. On Friday, Sonali Samarasinghe (Sri Lanka), Chair of the Credentials Committee, presented the Committee's report (ISBA/25/A/11). The Assembly approved the report and adopted the draft decision, which approves the Committee's report.

Statement by the President of the Council

On Tuesday, ISA25 Council President Yengeni summarized the work of the Council, highlighting progress made during the two sessions (25 February-1 March and 15-19 July 2019), including that the Council, *inter alia*:

- approved a plan of work for exploration of polymetallic nodules by the Beijing Pioneer Hi-Tech Development Corporation;
- considered the draft exploitation regulations submitted by the LTC;

- extended the contract of the Special Representative of the Secretary-General for the Enterprise; and
- requested the Open-ended Working Group on the Financial Model to reconvene for a third meeting.

She highlighted that the Council had been unable to reach consensus on the election of members of the LTC. The Assembly lauded ISA25 Council President Yengeni for her report, acknowledging the Council for its achievements in furthering the work on the regulations. The Assembly took note of the oral report.

Report of the Secretary General

On Tuesday, Secretary-General Michael Lodge presented his annual report (ISBA/25/A/2). The Assembly was also invited to consider a submission by the African Group on the training programme for developing countries (ISBA/25/A/8).

Secretary-General Lodge, *inter alia*:

- encouraged members of the Authority that have not done so to deposit charts and lists for the delineations of the limits for national jurisdictions, and accede to the Protocol on the Privileges and Immunities of the ISA;
- urged member states to pay their arrears, providing an overview of the financial status of the Authority's funds;
- noted progress on the new ISA website;
- highlighted workshops organized to facilitate the development and review of REMPs;
- emphasized the completion of the data management system;
- highlighted the training and internship programmes of the Authority;
- stressed the implementation of the Authority's voluntary commitments registered at the UN Ocean Conference to support the implementation of SDG 14;
- underlined the organization of various workshops to advance the Authority's priorities;
- highlighted relationships with many relevant, international organizations; and
- drew attention to the Authority's participation in global and regional conferences, including in the BBNJ process.

Many commended Secretary-General Lodge and the Secretariat on a comprehensive report, and lauded the Authority for achieving gender parity in its Secretariat structure. Canada, Australia, and New Zealand, *inter alia*: acknowledged the importance of the draft exploitation regulations balancing sound commercial principles with best environment practices, supported by FSM; and reiterated the need for detailed information for environmental impact statements.

On the draft exploitation regulations, FSM, the Russian Federation, and others reiterated that quality should be prioritized over self-imposed arbitrary deadlines. Nigeria stated that the draft exploitation regulations should safeguard the sustainability and health of the ocean. Viet Nam emphasized that prospecting and exploration activities must ensure the successful implementation of SDG 14.

Jamaica and the African Group highlighted the establishment of the host country committee. Canada, Australia, and New Zealand emphasized the need for a fair payment system and underscored the need for regulatory functions to ensure compliance. Tonga stressed the need to ensure that the regulatory framework is robust for present and future generations. Cameroon noted the need to consider the effect of deep sea mining on terrestrial mines, with DSCC, and emphasized the environmental and cultural values of the marine environment in addition to its

economic valuation. The Pacific Community stressed the need for the draft exploitation regulations to address the impacts of seabed activities to fisheries.

Romania urged member states to accede to the Protocol on the Privileges and Immunities of the Authority. The Pacific Islands Forum highlighted the importance of the notion of "reasonable regard" and the need to ensure that regulations, standards, and guidelines are of high quality to safeguard other uses of the ocean. DSCC and Greenpeace emphasized that deep-sea mining is not an ideal, low-carbon solution. Greenpeace further called for tackling inefficient use of resources and overconsumption, and for a moratorium on deep seabed mining.

Training programmes and capacity building: Jamaica and others stressed that capacity building lies at the core of developing countries' ability to take part in the Authority's activities and fulfill their obligations under the UNCLOS. The African Group, supported by the Philippines and others, pointed to its submission on training programmes, inviting the Assembly to take note of its recommendations. Japan, the Russian Federation, and others outlined national efforts on training programmes. Togo lauded the Authority for the launch of the Africa Deep Seabed Resources (ADSR) project. Sri Lanka, India, and Tonga supported the Authority's capacity development programmes on MSR as well as technical capacity-building programmes for professionals. Myanmar called for the results of MSR to be published on the ISA website. The Republic of Korea proposed a systematic evaluation of the contractors training programmes. DOSI suggested improving the geographical diversity regarding internship opportunities.

Funds: Many thanked donors, urging additional contributions from those in a position to do so, and called for the payment of arrears. Jamaica, the African Group, and others expressed concern regarding arrears and their impact on the balance of the Working Capital Fund. China outlined national financial contributions to the Authority's work. Monaco noted his country's willingness to continue to support the Secretary-General's Award for Excellence in Deep Sea Research.

The Gambia requested the Secretariat to be more innovative in securing funding for the Voluntary Trust Fund to support participation of developing country members. Myanmar and the Center for Polar and Deep Ocean Development appreciated the Endowment Fund's support for trainees on MSR in the Area.

Regional and international conferences: Jamaica, the African Group, Tonga, the Philippines, DSCC, and others emphasized the Authority's participation in a series of regional and international conferences, highlighting the BBNJ process. Japan invited the Authority to participate in the seventh Tokyo International Conference on African Development in August 2019, in Japan.

Partnerships and workshops: Jamaica commended the Authority on its work on all voluntary commitments made at the 2017 UN Ocean Conference. The African Group highlighted the Authority's partnership with the African Minerals Development Centre, and, with many others, the Pretoria Workshop on Standards and Guidelines. Sri Lanka welcomed the partnership between the Authority and the Indian Ocean Rim Association. Brazil lauded the Authority's partnerships with the International Tribunal for the Law of the Sea (ITLOS), the International Maritime Organization (IMO), and the World Maritime University. Chile called on the Secretariat to liaise with the Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) on work related to marine pollution.

REMPs: While supportive of the growing number of REMP workshops, China opined that how these REMPs are dealt with in relation to exploitation remains a question for the Authority.

Singapore, Italy, the Philippines, and Costa Rica welcomed the development of REMPs, with Costa Rica and others noting they must be in place before mining activities commence. Nauru and Italy recommended more regional workshops on REMPs. Chile proposed including experts from the Intergovernmental Panel on Climate Change (IPCC) and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) in REMPs workshops. The Russian Federation invited participants to a workshop on REMPs, to be held in the Russian Federation in June 2020, and India announced their intention to host a workshop on Indian Ocean REMPs.

Transparency: Jamaica and DSCC stressed that livestreaming ISA's deliberations makes them open and accessible. Jamaica, Nigeria, Italy, the Philippines, and others highlighted the launch of the database management system, noting that it will promote transparency and visibility. The African Group noted that member states should be involved in consultations on contracts, especially on the template on public disclosures, to increase transparency. FSM called for the participation of indigenous peoples and local communities with relevant traditional knowledge.

Togo, Jamaica, Singapore, Nigeria, and others welcomed progress on a new ISA website. Chile urged the Secretariat to inform the Assembly of contractors' compliance in conducting exploration activities based on their annual reports. The Philippines emphasized transparency as a critical obligation for contractors, highlighting the role of sponsoring and coastal states, and calling for strengthening the Authority's relevant regulatory functions. The Holy See appreciated continued efforts to ensure transparency and accountability in decision-making.

Common Heritage: Jamaica, with Nigeria, emphasized the need for responsible exploitation in the Area, ensuring the effective protection of the marine environment, and realizing, despite the challenges, the common heritage regime. Highlighting the benefit-sharing component of common heritage, the African Group stressed that the legal regime on the common heritage is a "revolutionary vision, with far-reaching implications, towards the sustainable development of mineral resources in the Area." China identified the development of draft exploitation regulations as a priority task and essential for the implementation of the common heritage principle. Côte d'Ivoire suggested closer collaboration between the Authority and the African Union to incentivize African countries' participation and realize the common heritage regime. Cameroon highlighted the need to benefit from the common heritage regime, cautioning that "the window of opportunity is extremely small."

Secretary-General Lodge responded to queries, *inter alia*, welcoming the invitation to collaborate with the African Union, and taking note of the suggestion to include GESAMP, IPCC, and IPBES experts in REMPs workshops.

The Assembly took note of the Secretary-General's annual report, and the African Group's submission on training programmes for developing countries.

Implementation of the Strategic Plan

On Monday, Secretary-General Lodge observed that the Assembly, the Council, and the LTC all have women at their helms. He introduced the draft high-level action plan for 2019-2023 (ISBA/25/A/L.2), underscoring the performance indicators for the implementation of the strategic plan (ISBA/25/A/5) as well as a report on considerations to the draft high-level plan (ISBA/25/A/6). He highlighted the consideration of comments collected from public consultations as well as the alignment of indicators to the adopted elements of the Strategic Plan.

He concluded that a decision for the high-level action plan is fundamental to the Authority's work, including in preparing business plans and budgets.

On Wednesday, Assembly Vice-President Mariusz Orion Jędrysek (Poland), on behalf of President Johnson Smith, opened the discussion on the implementation of the Strategic Plan.

General: Many lauded the Secretariat for its hard work and stressed that the draft high-level action plan and performance indicators should be kept under review. Chile called for specific, measurable, attainable, and relevant performance indicators, with timelines, and suggested, with Costa Rica, Ecuador, and Brazil, the establishment of an open-ended working group to work intersessionally.

Jamaica, Costa Rica, and Chile requested clarification on the areas where there are no specific outputs in the high-level actions. Noting that the high-level action plan provides the basis for the development of a business plan, Jamaica expressed concern on potential budgetary considerations where no outputs are stated.

The Netherlands flagged that there is no mention of a clear timeline for completion of the draft exploitation regulations, and, with Japan, Australia, Nauru, Mexico, Belgium, the UK, Thailand, and Italy, expressed support for the adoption of the draft high-level action plan and its associated indicators. Nauru cautioned against micromanaging the Secretariat, calling for early implementation of the Strategic Plan. Considering limited resources, Japan suggested that priority be given to the development of standards and guidelines to expedite the draft exploitation regulations.

Italy proposed that the Secretariat optimize performance indicators in an updated table to illustrate the specific activities related to the actions, in order to systematically assess the indicators in a periodic review process. Argentina noted that the Strategic Plan started in 2019, thus the lack of an operational action plan constitutes a "great gap." Ecuador underscored the need for transparency to achieve a balance between commercial exploitation and preservation of oceans. India and the Russian Federation noted that a number of the proposed timelines end in 2019, stressing that it is not "realistic" to try to meet them given that there are no more sessions of ISA organs planned for the duration of the year.

Mexico stressed that the draft high-level action plan will contribute to the process of institutional learning. Canada welcomed the inclusion of online or virtual meetings as a performance indicator and preferred excluding the completion date for the draft exploitation regulations.

The DSCC emphasized aligning performance indicators with the 1994 Agreement and suggested two additional indicators: the number of open LTC meetings, and the establishment of a process of soliciting and taking on board public comments on any future EIAs and monitoring plans.

Realize the role of the Authority in the global context: The African Group proposed establishing partnerships with "regional organizations," like the African Union, in addition to international organizations. Chile stressed the Authority's role to promote a balance between the three sustainability pillars when planning activities in the Area. The Holy See emphasized that some of the performance indicators do not assess the Authority's performance, but rather recognize the extent of its global influence.

Strengthen the regulatory framework for activities in the Area: The African Group suggested clarifying the roles and responsibilities of stakeholders, particularly sponsoring and flag states, and urged the Secretariat to publish the matrix of responsibilities as soon as possible. Chile underscored the importance of taking into account aspects of the circular

economy. China proposed that monitoring and reviewing of contractors' compliance be performed by the LTC rather than the Secretariat. The Holy See suggested further work with sponsoring and flag states, terrestrial-based producers, and the IMO. Special Representative for the Enterprise Charles urged ensuring that the Enterprise is part of the development of the regulatory framework for activities in the Area.

Protect the marine environment: Chile underscored a “vacuum in the implementation” of REMPs, noting that some of the high-level actions and measures have no descriptions. China:

- proposed that the Council be responsible for REMPs development rather than the Secretariat;
- stressed that it is too early to decide on the establishment of a mechanism for engaging consultants with the Authority's work; and
- requested deleting the qualifier “independent” in relation to the review mechanism for environmental plans, noting that these matters are closely related to the development of the draft exploitation regulations.

Costa Rica proposed clarifying that the performance of the Authority be assessed through its capacity to develop, implement, and keep under review the regular rules and procedures “based on best available science, the precautionary principle, and best environmental practices.” Italy encouraged the prioritization of mining tests in the monitoring programme and recommended that this be open to public consultation.

India noted that the LTC had not developed recommendations for the guidance of contractors in relation to conducting EIAs of mining tests, querying when this would happen. Argentina and the Holy See requested clarification on what constitutes “non-confidential environmental information.” The Holy See added that the draft high-level action plan and the performance indicators should include economic methodologies on risk as well as the natural capital and ecological services to assess potential risks of activities in the Area.

Promote and encourage MSR in the Area: Costa Rica, supported by the DSCC, proposed an additional indicator to promote MSR to ensure effective protection of the marine environment and related obligations of the Convention, including through REMPs. The Holy See proposed analyzing the consequences of confidentiality and property laws. InterRidge appreciated the increase of MSR in the Area and encouraged wider participation across different scientific disciplines.

Building capacity for developing states: The African Group called for categorizing states according to UNCLOS, including geographically disadvantaged states. Fiji looked forward to the establishment of a regional ISA center in the Pacific region, in line with UNCLOS Article 156 (establishment of the Authority).

Costa Rica, supported by the Holy See, proposed amending the indicators to measure actions by the Authority to promote financial contributions, rather than the actual number of contributors. Italy highlighted the importance of environmental baseline data collection in order to meet future minimum environmental requirements. Argentina suggested that consultations with developing states on participation barriers be held on a regular basis.

Ensure fully integrated participation by developing states: India urged partnering with the Intergovernmental Oceanographic Commission of UNESCO (IOC) for the provision of training opportunities; underlined the need to monitor whether beneficiaries of capacity building return to their home countries; and called for providing access to information on resource assessments of reserved areas to interested potential contractors.

Improve the organizational performance of the Authority: India underscored the importance of transparent recruitment processes, incorporating external expertise to promote better hiring practices. The Holy See requested including a reference to preventing conflicts of interest.

Commit to transparency: The African Group requested clarification on the definition of confidential information and data. Costa Rica proposed an additional indicator to make publicly available the contracts, contractors' annual reports, and related environmental information, including the EIAs associated with applications for Plans of Work.

Secretary-General Lodge responded to interventions, explaining the goal of the draft high-level action plan is to determine what needs to be done to implement the Strategic Plan and inform the business plan. He confirmed that a matrix of responsibilities will be published and released in 2020. Delegates requested the Secretariat to revise the documents based on suggestions made during the discussion.

On Wednesday, introducing the revised documents containing tracked changes on the draft high-level action plan and the draft performance indicators, President Johnson Smith highlighted that the amendments made to the drafts were the result of robust discussions with those concerned.

Secretary-General Lodge drew attention to an amendment under strategic direction related to transparency, namely: “the measures taken by the Authority, in conformity with UNCLOS and the rules, regulations, and procedures of the Authority, to make publicly available the contracts, contractors' annual reports, as far as reasonably feasible, and related environmental information, including the impact assessments associated with applications for the plans of work when allowed by national legislation will be monitored.”

FSM supported the inclusion of best environmental practices for the development of rules for the environmentally responsible management of activities in the Area, calling also to include the relevant traditional knowledge of indigenous peoples and local communities. Reiterating that the action plan is a “living document,” Brazil welcomed the amendments.

Regarding transparency, India provided background information on the discussion regarding making contractors' annual reports publicly available, taking into account confidentiality issues, including the use of the relevant template. He requested taking into account the contractors' concerns and further reiterated his concern regarding activities that should have been taken up in 2019. Costa Rica responded that the relevant language addresses the measures taken by the Authority and not the assessment of contractors' work, further requesting clarification on the meaning of the addition of “as far as reasonably feasible” in the publication of contractors' annual reports.

Following informal consultations, Secretary-General Lodge shared revised text that the Authority shall make available “non-confidential information of the contracts and the contractors' annual reports, when allowed by national legislation.”

The Assembly adopted the draft decision with the understanding that the high-level plan and performance indicators have been revised and agreed.

Final Decision: In the final decision (ISBA/25/A/6), the ISA Assembly, *inter alia*:

- adopts the performance indicators developed for each priority of the Authority against each of the strategic directions in the Strategic Plan of the Authority for the period 2019-2023, as set out in Annex I to the decision;

- also adopts the ISA's High-Level Action Plan for the period 2019-2023, as contained in Annex II to the decision;
- invites the Secretary-General to take into consideration the list of performance indicators and outputs when developing the business plan of the Secretariat for the period 2019-2023, and requests that the Secretary-General, as appropriate, monitor and analyze progress and, as necessary, establish any mechanisms required to review and provide an update on progress made under the Strategic Plan; and
- invites member states and other relevant stakeholders to provide the data necessary to ensure accurate reporting on progress towards the implementation of the Strategic Plan and the High-Level Action Plan and the achievement of identified outputs.

Annex I (ISBA/25/A/5) contains the performance indicators 2019-2023, as well as a rationale and explanation of how the indicators will contribute to assessing progress in implementing the strategic directions. There are nine strategic directions:

- realize the role of the Authority in a global context;
- strengthen the regulatory framework for activities in the Area;
- protect the marine environment;
- promote and encourage MSR in the Area;
- build capacity for developing states;
- ensure fully integrated participation by developing states;
- ensure equitable sharing of financial and other economic benefits;
- improve the organizational performance of the Authority; and
- commit to transparency.

Annex II (ISBA/25/A/L.2) contains the High-Level Action Plan, which outlines the high-level actions corresponding to the nine strategic directions, as well as high-level actions and related outputs in tabular form.

Consideration of Requests for Observer Status

This agenda item was considered on Monday and Friday in plenary and in an informal group, chaired by Norway. President Johnson Smith noted four requests for observer status (ISBA/25/A/INF/1-4), and drew attention to the draft guidelines for observer status of non-governmental organizations (NGOs) with the ISA (ISBA/25/A/7).

On the application by the Advisory Committee on Protection of the Sea, the African Group and Morocco highlighted the dearth of information contained in the application as well as the inclusion of an individual's name, as opposed to the usual practice of the organization's name; and called to defer this application to ISA 26. Belgium, with the UK, supported approving the application. Brazil, supported by the UK, proposed that the application be approved and renewed after the Assembly considers the new observer status guidelines. Discussions on this application were suspended. On Friday, the Assembly considered the additional information provided by the observer, and approved the application (ISBA/25/A/INF/1).

On the application by the Institute for Sustainable Development and Research, the African Group noted the lack of information and called to defer this application to the next meeting, with a request for more information. The Assembly agreed to defer this application to ISA 26.

On the application by the Ocean Society of India, the African Group queried the conflict of interest potentially arising from the relationship between the applicant and a sitting member of the ISA Assembly. The Assembly accepted the application (ISBA/25/A/INF/3), without objection. On Friday, the African Group introduced a request to the ISA Office of Legal Affairs to provide a legal opinion by ISA 26 regarding the potential conflict

of interest in the case where there is an application for observer status formulated by a person or persons accredited as a member state in the same session when the application is considered. The Assembly agreed by consensus to forward this request.

On the application by Opes Oceani, the African Group noted that as this is a private sector company, it does not meet the criteria for NGO observer status. The Assembly rejected the application on these grounds.

Alfonso Ascencio-Herrera, Legal Counsel and Deputy to the Secretary-General, ISA Secretariat, introduced the Secretariat note on the consideration of requests for observer status (ISBA/25/A/7). He noted that while observers' status is addressed under Rule 82 of the Assembly's rules of procedure, no details are given on the application process, the assessment criteria, or the review process. He noted that other international organizations, including the IMO, have detailed requirements in the form of guidelines for assessing applications for observer status. Ascencio-Herrera highlighted that the objective of the guidelines is three-fold, namely to:

- assist the applicant to comply with all necessary requirements;
- ensure that observer status is granted to entities contributing to the Authority's mission and activities; and
- establish a standardized application format.

Inviting delegates to address the draft guidelines and the draft decision, he reminded them that the draft is indicative in nature and it is up to the Assembly's members to decide on its final content.

Many appreciated the development of the guidelines as a good starting point for further discussions and recognized the value of open exchange of ideas with observers as a necessary part of transparency.

Italy, supported by many, underscored the importance of transparency, close cooperation, public participation, and fact checking in the Authority's work, and highlighted, *inter alia*:

- that the ISA has a "higher moral role, being at the core of a sophisticated architecture," compared to an organization regulating an industrial sector, like the IMO, supported by Costa Rica;
- ambiguity regarding the kind of support activities to ISA's work that an NGO needs to undertake to be granted observer status, with the Netherlands, IASS, and others;
- that the objectives and functions of an NGO need not be in consonance with those of the Authority, calling for "a plurality of voices," with Costa Rica, Germany, the Netherlands, the Pew Charitable Trusts, and several others; and
- concerns regarding the periodic review process, suggesting instead that the observer status be revoked for observers who are absent for two consecutive sessions, with Costa Rica and the Netherlands.

GRULAC suggested informal discussions among member states to improve the guidelines. Costa Rica, supported by Norway:

- stressed that requesting potential observers to "reasonably demonstrate their interest" is ambiguous;
- queried whether NGOs will need to fulfill all five criteria contained in the draft guidelines or just a few;
- emphasized that monitoring, control, and criticism are among the essential functions of NGOs; and
- called for taking into account Rio Declaration Principle 10 (public participation) and SDG 17 (partnerships for the goals) in the development of the draft guidelines.

Tonga lauded the reference to the IMO rules and guidelines for consultative status of NGOs, and pointed to the vital role of observers in building the capacities of small delegations.

Germany stressed, with the Netherlands and many others, that transparency was chosen as one of the ISA's guiding principles due to its fundamental role in building trust and enhancing accountability and credibility, and suggested redrafting the guidelines for adoption by the end of the week.

The Netherlands, with the UK, New Zealand, Australia, Canada, Spain, and others, noted that the draft guidelines pose "too strict" requirements for observers, highlighting that some of the guidelines are based on a "notion of reciprocity," with NGOs contributing to the work of the ISA.

China requested clarification on the withdrawal of observer status from organizations that do not make a "substantial contribution" to the ISA's work, with Chile; and called for clarity on an "incremental approach" in building the process for granting observer status.

Chile called for guidelines for all observers, not only NGOs; and, with Australia and New Zealand, called for further discussions on conflict of interest scenarios. Ecuador called for amendments to the guidelines to be made in alignment with the Strategic Plan.

Australia and New Zealand, supported by many, proposed a review of the draft guidelines to allow for an increased balance of interests, to avoid being "overly prescriptive." Canada said that the observer status should include indigenous peoples.

DOSI highlighted the need to, *inter alia*:

- reconsider the categorization of observers;
- include the Authority's obligation to promote MSR as well as include the common heritage of humankind principle, with DSCC, IASS, and IUCN; and
- clarify potential cases of conflict of interest.

DSCC stressed that restrictive provisions would discourage open debate and participation, emphasizing that the draft guidelines run counter UNCLOS Article 169 (consultation and cooperation with NGOs) and ISA's Strategic Plan, and suggesting the draft guidelines be withdrawn and a comparative study on up-to-date observer rules and practices be performed. Thyssen-Bornemisza Art Contemporary reminded delegates that the common heritage principle requires broad participation for transparency and credibility, even when participants' views are not in line with those of the Authority. IASS emphasized that important elements are missing in the mechanism for the periodic review of the list of NGOs, including observers' right to defend their position.

In response, Ascencio-Herrera noted, *inter alia*, that:

- criteria of what is considered "substantial contributions" are included in the document;
- the guidelines may be reviewed in the future; and
- the Secretariat prepared the document based on the IMO's guidelines as requested by the Assembly, reiterating that the guidelines constitute an indicative list.

Discussions continued in an informal group, facilitated by Norway.

On Friday, Norway reported from two informal discussions on guidelines, noting broad support for the revised draft circulated (ISBA/25/A/7).

GRULAC, with China, expressed satisfaction with the new draft. DSCC, supported by Costa Rica, commended the improved draft that "is living up to the spirit of transparency," and offered suggestions aimed to clarify:

- that the Assembly may offer invitation for application, but not require it;
- notification of concerns to provide an opportunity for response; and

- a study to better address the different categories of observers.

The Assembly adopted the revised guidelines.

Final Decision: In the final decision (ISBA/25/A/7), the Assembly, bearing in mind rule 82 of the rules of procedure, approves the guidelines, deciding that it may review them from time to time, and requests the Secretariat to communicate the guidelines to all NGOs having observer status with the Authority.

The guidelines, contained in Annex II of the document, address:

- requests for observer status;
- format and content of applications;
- submission of requests; and
- periodic review of the list of NGOs.

On requests for observer status, in determining the interest of an NGO in matters under consideration by ISA, the Assembly "may have regard to," *inter alia*: the purposes or activities of the organization related to the purposes and work of the ISA or whether the organization can contribute to the work the Authority by providing specialized information, advice, or expertise; and whether the organization has interest in or ability to support capacity-building programmes and initiatives carried out by the Authority. On the periodic review of the list of NGOs, the Assembly may review, every five years, the list of NGOs to which it has granted observer status to determine whether they continue to have an interest in matters under consideration by the Assembly.

Election to Fill a Vacancy on the Finance Committee

On Monday, President Johnson Smith introduced document ISBA/25/A/3 on the election to fill a vacancy on the Finance Committee. Myanmar nominated Nyan Lin Aung, who was elected by acclamation, to replace Ye Minn Thein for the remainder of his term.

Report of the Finance Committee

On Wednesday, Andrzej Przybycin (Poland), Chair of the Finance Committee, presented the report of the Finance Committee (ISBA/25/A/10-ISBA/25/C/31). He highlighted, *inter alia*:

- the implementation of the budget for 2017-2018;
- the status of the Working Capital Fund, contributions, and trust funds;
- the review of cost-savings matters; and
- the Finance Committee's recommendations to the Council.

India requested information on the additional costs covered by each contractor, which could be recovered over the next financial year. Argentina highlighted the need to diligently address norms and procedures on equitable benefit sharing, and suggested studying cost estimates of the office of the Special Representative for the Enterprise, with a view to reduce costs.

Responding to comments, Finance Committee Chair Przybycin noted that: the survey on the information requested by India is in progress and the results will be available in 2020; and the benefit-sharing considerations are complex, reminding the Assembly that it can provide advice to the Finance Committee.

The Assembly took note of the report.

On Wednesday, President Johnson Smith introduced a draft decision on financial and budgetary matters (ISBA/25/A/L.3). Regarding transfer of resources resulting from reduction in the costs of conference services to ISA's programmes, India requested clarification on the nature of these programmes.

The Secretariat took note of the comment. The Assembly adopted the draft decision.

Final Decision: The Assembly adopts a decision related to financial and budgetary matters (ISBA/25/A/L.3), taking into account the recommendations of the Council. This decision mirrors the Council decision and is summarized under the relevant section (see page 9).

Promoting International Cooperation

On Friday, President Johnson Smith introduced the draft memorandum of understanding (MoU) between the ISA and the Chinese Ministry of Natural Resources on the establishment of a joint training and research center (JTRC) (ISBA/25/A/4), noting that this MoU will not create legally binding rights for parties, and does not pose financial obligations to parties or the Authority. China noted that the proposed JTRC, to be based in Qingdao, China, will promote capacity building, MSR, and the common heritage of humankind principle, and contribute to the implementation of the Strategic Plan. The Asia-Pacific Group, Jamaica, Fiji, India, and Costa Rica welcomed the establishment of the center, and supported the endorsement of the MoU. Thanking China for the proposal on the establishment of the JTRC, President Johnson Smith then proposed, and delegates agreed, to endorse the text of the MoU and recommend its conclusion by authorizing the Secretary-General to sign it on behalf of the Authority.

ISA's 25th Anniversary

On Thursday, the Assembly of the International Seabed Authority (ISA) held a special commemorative session for its 25th Anniversary. Secretary-General Lodge thanked the Jamaica Combined Cadets Force for the flag ceremony opening, and noted that 25 July is the African Day of Seas and Oceans.

Secretary-General Award for Excellence in Deep Sea Research: Secretary-General Lodge introduced the second edition of the Secretary-General Award for Excellence in Deep Sea Research, which aims to promote MSR in the Area. Lodge outlined the selection process and expressed gratitude to Monaco for supporting the award.

Tidiani Couma, Monaco, stressed the importance of promoting MSR, which “contributes in a crucial manner to the balance of our world.” He noted the need to ensure that science is accessible to all and called for furthering our knowledge of the deep sea as a basis for defining goals. Couma reiterated Monaco’s support for further sponsorship of the award.

Secretary-General Lodge announced the winner of the 2019 award, Mauricio Shimabukuro, Institute of Oceanography, University of São Paulo, Brazil, and presented him with a polycrystalline nodule embedded in glass. Shimabukuro accepted the award for his research, including ongoing work of benthic species in the Atacama Trench, aiming to improve management and protect deep sea ecosystems.

High-Level Panel on Capacity Building: This panel, moderated by Cliff Hughes, Media Personality, featured presentations by Secretary-General Lodge; Baron Waqa, President of Nauru; Jens Frølich Holte, Deputy Minister of Foreign Affairs, Norway; Carlos den Hartog, Permanent Representative of Brazil to ISA; Rena Lee, Ambassador for Oceans and Law of the Sea Issues and Special Envoy of the Minister for Foreign Affairs, Singapore; Satyendra Prasad, Permanent Representative of Fiji to the UN; and Sonali Samarasinghe, Minister Counsellor, Permanent Mission of Sri Lanka to the UN. For more details on the presentations and the discussion that followed, see <http://enb.iisd.org/vol25/enb25206e.html>

Commemorative Session of the Assembly: Assembly President Johnson Smith noted ISA’s milestone role to ensure the Authority’s positive impact in people’s livelihoods worldwide. Secretary-General Lodge underscored the Authority’s achievements, *inter alia*: fulfilling a regime envisaged by the 1994 Agreement; ensuring multilateral functions and processes; enhancing capacities for developing countries; and setting up the Deep Seabed and Ocean Database (DeepData).

For more details on Thursday’s statements that followed, see <http://enb.iisd.org/vol25/enb25206e.html>

On Friday, delegations who did not get the opportunity to speak on Thursday delivered their statements. Kenya called for the establishment of a regional center in Africa and urged the operationalization of the Enterprise for the benefit of developing countries. Guyana drew attention to the country’s plan to protect the marine environment as part of its development programmes. Nigeria expressed eagerness for the sharing of benefits from the Area, recognizing the need to also protect the marine environment.

The European Union supported the work of the ISA noting the need to develop regulations and guidelines in an inclusive and participatory manner. Kiribati underlined the need for the draft exploitation regulations to address potential transboundary effects and cumulative impacts of seabed mining. The Bahamas supported the ISA’s focus on capacity building, calling for it to take up the suggestions raised during the High-Level Panel on capacity building. Tuvalu noted that as a least developed country and a SIDS, the country is seeking development partners to improve the livelihoods of their population through new avenues like seabed mining.

The Holy See highlighted humans’ relationship to the ocean, stressing the importance of ensuring harmony between MSR, environmental protection, and business activities in seabed exploration, including addressing potential conflicts of interest. IOC noted the cooperation between IOC and ISA in advancing MSR, acting as a catalyst for innovation. International Oil Pollution Compensation Fund reaffirmed future cooperation with ISA.

DSCC called for ceasing the granting of contracts for seabed mining exploration and exploitation until social, economic, and environmental concerns are met, including those related to biodiversity loss. DOSI underscored deep sea science as an essential driving force for regional REMP, capacity building, and for achieving overarching strategic environmental goals and objectives. Greenpeace called for political will to promote the circular economy, change the consumption model, and impose a moratorium on seabed mining.

International Marine Minerals Society highlighted the society’s services, including the provision of independent scientific expertise and of assistance to developing countries to narrow technical gaps. IUCN congratulated ISA for its stability, inspiration of hope, and support of science, underlying the need to apply the precautionary principle moving forward.

President Johnson Smith concluded the commemorative session, stressing the spirit of collaboration and cooperation in the Authority’s deliberations, and expressed full confidence in success over the next 25 years.

Launch of ISA's Deep Seabed and Ocean Database (DeepData)

On Thursday, Secretary-General Lodge underlined that the launch of this database is one of the most important milestones of the Authority’s history. LTC Chair Walker noted that the fulfillment of the ISA’s mandate critically depends on the

collection and management of data. Jihyun Lee, ISA Secretariat, highlighted that the main functions of DeepData include raising deep sea literacy, transforming the knowledge flow between the organs of the Authority and contractors, and supporting marine conservation. Maruthadu Sudhakar, India, shared contractor perspectives underlining confidentiality concerns, and reiterating contractors' commitment to collect and submit data as the Authority moves into seabed exploitation. Sheldon Carter, ISA Secretariat, presented on the type of information submitted to the ISA over the years, and demonstrated how to access the public data in the database.

Inaugural Biennial Lecture

On Tuesday morning, Stephen Vasciannie, President, University of Technology, Jamaica, gave an inaugural lecture on the role of the Montego Bay Convention (UNCLOS) and the ISA in contributing to the rule of law. For more details, see <http://enb.iisd.org/vol25/enb25204e.html>

Dates of the Next Session

On Friday, Secretary-General Lodge reported that the next Assembly session will be held in July 2020, and noted that Western European and Others Group is due to nominate a candidate for the ISA26 presidency.

Other Matters

Amendments to the staff regulations of the Authority: On Friday, Alfonso Ascencio-Herrera, ISA Legal Counsel and Deputy to the Secretary-General, introduced the amendments to the staff regulations (ISBA/25/A/9-ISBA/25/C/28) and (ISBA/25/A/L.4).

The Assembly adopted the draft decision with no objections.

Final Decision: In the final decision (ISBA/25/A/L.4), the Assembly:

- approves the amendment to regulation 9.4 of the staff regulations of the Authority on the age of retirement and the mandatory age of separation, as adopted by the Council;
- decides that the amendment shall take effect on 1 October 2019; and
- requests that the Secretariat reissue the staff regulations of the Authority using gender-inclusive language.

Closing Plenary

On Friday, Brazil, expressing satisfaction with the President, thanked the Secretary-General, Secretariat, and the *Earth Negotiations Bulletin* for documenting deliberations. Mexico acknowledged the positive pace of work achieved under the Secretary-General. China acknowledged the accomplishments of adopting a High-Level Action Plan to implement the Strategic Plan and praised the President's leadership.

Jamaica expressed delight with the Jamaican Presidency of the ISA Assembly, and thanked her for efficiently handling the agenda. President Johnson Smith thanked the Assembly for the support and collaboration; observers for their added perspective and transparency; and the Secretariat and staff for the support. She gave the ISA25 Assembly to a close at 12:05 pm.

A Brief Analysis of the Meeting

“If not for the Authority, the seabed would be a new form of colonization, with the interests of a few being more important than the common good.” The spirit of the Algerian delegate Mehdi Remaoun's words, in honor of the 25th anniversary of the International Seabed Authority (ISA), was echoed by many delegates. The Authority's anniversary offered participants the opportunity to acknowledge its achievements, as well as some shortcomings, but also to contemplate what “the seabed would look like without the ISA” and “what the world would look like without UNCLOS, the UN Convention on the Law of the Sea, “one of the greatest diplomatic achievements in history.”

The Authority has grown and matured over its history. As envisaged in the 1994 Implementing Agreement, it has reached almost universal participation with 168 members. It represents, in the words of its Secretary-General Michael Lodge, “a unique experiment in civilization; it is the only example that we have of a global commons that is managed internationally for the benefit of all humanity.” Getting to where we currently are in this unique experiment has not been easy, and both the Council and the Assembly had their work cut out for them at their respective meetings to ensure that the next 25 years are even brighter than the last.

This brief analysis will highlight the main strides that member states made in the development of exploitation regulations for deep-seabed mining, together with the key obstacles. It will further shed light on the Authority's strategic direction as well as its culture, focusing on the deliberations on the High-Level Action Plan for the Strategic Plan 2019-2023 and the guidelines for observer status of non-governmental organizations (NGOs).

Draft Exploitation Regulations

The draft exploitation regulations have been the focus of discussions for a number of years, with exploration licenses that guarantee exploitation rights close to expiration and previous Council decisions setting the year 2020 as the deadline for their completion and operationalization. While some Council members arrived in Kingston ready to address the revised draft regulations prepared by the Legal and Technical Commission (LTC) in order to meet this deadline, most prioritized focusing on the quality of the regulations rather than on “self-imposed deadlines.” With one delegate noting his “serious concerns about being steered by the notion that 2020 is a fixed deadline,” most participants seemed to agree on the need to “get it right” and considered the adoption of the draft regulations by 2020 “highly improbable.”

Prioritizing quality, Council members thoroughly considered the building blocks of the draft exploitation regulations and, according to most participants, progress was made. The recognition that standards and guidelines relevant to the regulations need to be developed, and intersessional work, including workshops, was highlighted by many delegates as an important step in the right direction. The decision to reconvene the working group on the financial model recognizes that further consideration of the economic aspects of commercial seabed mining activities is needed, including on benefit-sharing arrangements and the pragmatic operationalization of the common heritage regime. Finally, additional focus on regional environmental management plans (REMPs) and the organization intersessionally of various regional workshops is also expected to contribute towards “getting it right,” thus signifying progress.

The parts of the exploitation regulations that deal with environmental protection have attracted increasing attention. Most delegates agreed that environmental considerations have

gained more importance over time, including proposals for strong provisions in the preamble of the regulations acknowledging guiding principles for the effective protection of the environment. An increasing number of delegates delivered strong statements in favor of REMPs, proposing language to ensure that environmental standards are legally binding, which is testament to increased interest. The advancement of the consideration of the protection of the marine environment is crucial for sustainability and conservation. Contractors will also benefit from clear environmental regulations, with one of them noting that “the more we know about the environmental rules and regulations that we will need to follow, the easier it is to prepare for future operations, including calculating relevant costs.”

Yet, not everything was smooth. Several delegates were concerned with the initial pace of reviewing the draft regulations, with the host country delegate from Jamaica emphasizing that “it is fiction to think that we can complete a review of the document without informal discussions,” warning delegates that “at this pace, you are welcome to stay ‘til Christmas.” Although the pace did pick up and the Council successfully concluded its deliberations, some participants wondered whether “a dissection of the key parts of the regulations might be possible under a different format.”

The development of the draft exploitation regulations will continue intersessionally with the submission of additional written comments on the current draft. The ISA Council expressed its intention to “ensure a thorough and timely development of the regulations, bearing in mind that necessary standards and guidelines should be developed before their adoption.” While the discussion on the draft exploitation regulations attracted considerable attention, as a delegate noted “their development does not take place in a vacuum.” It is influenced by the strategic direction of the Authority, which decides its positioning in global oceanic and environmental governance. It is also affected by its underlying culture, allowing for additional public participation and transparency. Deliberations in the Assembly offered useful insights in those directions, which, by shaping the Authority’s enabling environment, provide the amniotic fluid necessary for the regulations’ development and eventual birth.

Operationalizing the Strategic Plan

While the adoption of ISA’s Strategic Plan 2019-2023 at ISA24 in 2018 would, in any case, constitute an important development, it takes on historic proportions if one takes into consideration that it is the first of its kind for the Authority. Thus, at ISA25 the focus of the Assembly turned to the High-Level Action Plan, a detailed document aiming at operationalizing the Strategic Plan, and its associated indicators.

The adoption of both the Action Plan and the performance indicators was not uneventful. Delegates expressed concerns, in the Assembly and in the corridors, regarding the absence of specific outputs for some of the high-level actions, with one delegate noticing, in particular, “a vacuum in the implementation of REMPs.” Others emphasized that it is not realistic to try and meet the draft’s proposed 2019 deadlines, given that there are no more sessions of ISA organs scheduled for this year.

A number of additional suggestions were tabled, such as assessing the indicators through a periodic review process, adding to the existing indicators to ensure effective protection of the marine environment, and changing the delegation of responsibilities among the Authority’s organs. Several clauses under the strategic direction related to transparency were

negotiated, with the Assembly deciding that the Authority shall make available non-confidential information of the contracts and contractors annual reports, when allowed by national legislation.

Multiple requests for clarifying parts of the Action Plan initially gave many participants the impression that consensus was a distant prospect. However, most concerns were satisfied by amending and adding to the text, and the remaining skepticism was overcome by ascertaining that the Action Plan is a “living document,” with built-in flexibility for amendment.

Furthermore, as a delegate noted, “the strategic direction of the Authority is of utmost importance in these exciting times for ocean governance.” As was repeatedly noted, both when the Strategic Plan was adopted and during the current session, its operationalization via the Action Plan introduces specific measurable actions, and allows placing the Authority in the context of global challenges and the Sustainable Development Goals (SDGs). Furthermore, with the intergovernmental conference on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (BBNJ) continuing its deliberations, some participants expressed caution about potentially competing interests. As one delegate observed: “Even if competing interests do not surface, interrelation is evident.” In that respect, the increasing international presence of ISA, including regularly and actively participating in the BBNJ proceedings, was greeted as another step in the right direction.

To Observe or Not to Observe?

While the guidelines for observer status of NGOs did not seem to be the juiciest item on the Assembly’s agenda, it proved controversial, with the original draft guidelines attracting criticism by a number of delegates. Following productive informal deliberations, the final set of guidelines adopted reveals the Authority’s trajectory towards what many saw as increasing openness and transparency.

Derived from concerns around the process for accepting or rejecting observers’ requests, the guidelines’ objective was to formalize a selection process, using specific criteria for admission. The development of the guidelines aimed to fill an existing gap, since the Assembly’s rules of procedure highlight observers’ status, but provide no clues on the application process, the assessment criteria, or the review process.

As a result, confusion and disagreement have been common over the years when addressing organizations’ applications for observer status. Even at this session, two out of four applications were accepted, although on one of them further legal advice was required as to whether a potential conflict of interest arises from the relationship between the applicant and a sitting member of the ISA Assembly.

The initial draft for consideration left many delegates “far from impressed.” Drawing heavily from a similar set of guidelines from the International Maritime Organization (IMO), the draft attracted criticism for being “outdated” and “too restrictive,” and discouraging open debate and participation. “We would all need to be yes-men to join ISA discussions under these rules,” explained one observer after skimming through the initial draft. During the plenary discussions on the Secretariat’s draft, delegates emphasized the differences between the Authority and “an organization regulating an industrial sector, like the IMO,” stressing “ISA’s higher moral role, being at the core of a sophisticated architecture.”

Other delegates were quick to notice that the objectives and functions of an NGO need not be “in consonance” with those of the Authority and queried the kind of “support activities” an

NGO would need to undertake as per the draft guidelines. Many observers underscored that monitoring, control, and criticism are often among NGOs' essential functions.

Following a significant amount of work during the week, the Assembly was able to produce and adopt a final set of guidelines that was hailed as "living up to the spirit of transparency." Restrictive clauses were removed or replaced, and the final outcome satisfied member states and observers alike. As a veteran remarked at the end of the deliberations: "This is an important development on what many assumed would be a minor agenda item, but we must remember that a prerequisite for the common heritage of humankind principle is broad participation for transparency and credibility." She concluded that the outcome was positive, but much of the exercise could have been avoided, "if only the Almaty Guidelines had been considered in the initial draft."

The Almaty Guidelines on promoting the application in international forums of the principles of the Aarhus Convention (on access to information, public participation in decision making, and access to justice on environmental matters) had indeed been referenced in last year's discussion in the Assembly that led to the development of the first draft of the guidelines. However, as an observer noted, "other than the Almaty Guidelines, other proposals had suggested that the IMO guidelines be used as a model, while yet others promoted fit-for-purpose guidelines, appropriate for a unique body like the ISA. "One way to increase efficiency in our deliberations," an Assembly member noted, "is to provide clear indications in our communication with the Secretariat regarding what we need and expect."

To Be Continued

Having existed for a quarter of a century, the Authority is undoubtedly at a crucial stage in its development, the transition from exploration (assessing the mining potential) to commercial exploitation of deep-seabed minerals. The scientific, technical, technological, economic, and legal complexities, the need to clarify the roles and responsibilities of stakeholders, and the inherent limitations of our stochastic forecasting models are all challenges to building the necessary framework for an unprecedented expedition into the frontier of seabed mining.

Part of the Authority's unique mandate is the common heritage of humankind, the operationalization of which is paramount as, in the words of two delegates from the African Group, "failure will result in an intolerable injustice, with a handful of strong and rich nations only getting stronger and richer, leaving the rest with little to show for in the exploitation of a common good." Furthermore, future exploitation will need to consider "the rights of future generations as well as the social necessity of deep-seabed mining. "I heard SDG 14 (life below water) referenced five dozen times, but SDG 12 (responsible consumption and production) referenced maybe only once," lamented one participant, pointing to the need to change consumption and production patterns in many parts of the world, as well as for an overall, frank discussion on the values and resources humanity ought to pursue. With the lights dimming on a lengthy and productive 25th annual session, delegates, the Secretariat, observers, and participants will not run short of things to analyze, organize, contemplate, and plan so that developments in the world's seabed benefit humanity as a whole.

In Secretary-General Lodge's words "the full potential of ISA's unique global mandate is yet to be fully realized and understood; but, by building on the achievements of the past 25 years we can move forward collectively in a way that meets the demands of the 2030 Agenda for Sustainable Development."

Upcoming Meetings

BBNJ IGC-3: This session will continue to negotiate issues related to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, in particular, marine genetic resources, including questions on the sharing of benefits, marine protected areas, environmental impact assessments and capacity building and the transfer of marine technology. **dates:** 19-30 August 2019 **location:** UN Headquarters, New York **www:** <https://www.un.org/bbnj/>

Seventh Tokyo International Conference on African Development: The Tokyo International Conference on African Development (TICAD) is an initiative of the Government of Japan. TICAD7 will focus on the theme, "Africa and Yokohama, Sharing Passion for the Future." It is co-hosted by the UN, UN Development Programme, World Bank, and African Union Commission. **dates:** 28-30 August 2019 **location:** Yokohama, Japan **www:** https://www.mofa.go.jp/af/af2/page25e_000274.html

46th session of the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP): The meeting will be co-hosted by UN Division for Ocean Affairs and the Law of the Sea and the UN Development Programme. On 10 September, GESAMP will celebrate its 50th anniversary. **dates:** 8-12 September 2019 **location:** UN Headquarters, New York **www:** <http://www.gesamp.org/meetings/46th-session-of-gesamp>

OceanObs'19 – An Ocean of Opportunity: This meeting is a community-driven global conference to communicate decadal progress of ocean observing networks and chart innovative solutions to society's growing needs for ocean information in the coming decade. **dates:** 16-20 September 2019 **location:** Honolulu, Hawaii, US **www:** <http://www.oceanobs19.net>

IPCC-51: The 51st session of the Intergovernmental Panel on Climate Change is expected to approve the summary for policymakers of the special report on the ocean and cryosphere in a changing climate. **dates:** 20-23 September 2019 **location:** Principality of Monaco **www:** <https://www.ipcc.ch/calendar/>

CBD Regional Workshop to Facilitate the Description of EBSAs in the North-East Atlantic Ocean and Training Session on EBSAs: Preceded by a training session on ecologically or biologically significant marine areas (EBSAs) on 22 September, this workshop will facilitate the description of EBSAs through application of the scientific criteria in Annex I of decision IX/20, and CBD decision 14/9, in which the Conference of the Parties (COP) invited parties to submit descriptions of areas that meet the criteria for EBSAs in the North-East Atlantic. **dates:** 22-27 September 2019 **location:** Stockholm, Sweden **www:** <https://www.cbd.int/meetings/EBSA-WS-2019-01>

UN 2019 Climate Summit: UN Secretary-General António Guterres will convene the UN Climate Summit under the theme "A Race We Can Win. A Race We Must Win," to mobilize political and economic energy at the highest levels to advance climate action that will enable implementation of many of Sustainable Development Goals. Its aim is to challenge states, regions, cities, companies, investors, and citizens to step up action in nine areas: mitigation; social and political drivers; youth and public mobilization; energy transition; climate finance and carbon pricing; industry transition; nature-based solutions; infrastructure, cities and local action; and resilience and adaptation. **date:** 23 September 2019 **location:** UN Headquarters, New York **www:** <http://www.un.org/climatechange/>

SDG Summit: The High-level Political Forum on Sustainable Development (HLPF), under the auspices of the UN General Assembly, will assess progress achieved so far since the adoption of the 2030 Agenda in September 2015 and provide leadership and guidance on the way forward that will help accelerate implementation of the 2030 Agenda and SDGs. **dates:** 24-25 September 2019 **location:** UN Headquarters, New York **www:** <https://sustainabledevelopment.un.org/sdgsummit>

Deep CCZ Biodiversity Synthesis Workshop: ISA and the Deep CCZ Project (University of Hawaii) will convene an expert workshop on Deep CCZ Biodiversity Synthesis with financial support from the Gordon & Betty Moore Foundation, the Pew Charitable Trusts and the University of Hawaii. The workshop aims to review and analyze recent seafloor ecosystem data from the CCZ to synthesize patterns of biodiversity, community structure, species range, genetic connectivity, ecosystem function, and habitat heterogeneity along and across the CCZ, and to assess the representativity of the Areas of Particular Environmental Interest relative to exploration contract area. **dates:** 1-4 October 2019 **location:** Friday Harbor, Washington, US **www:** <https://www.isa.org.jm/workshop/deep-ccz-biodiversity-synthesis-workshop>

Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development - 15th Annual General Meeting: The IGF emerged from the 2002 World Summit on Sustainable Development (WSSD) in Johannesburg, South Africa. Delegates at the WSSD adopted the Johannesburg Plan of Implementation, which called for, *inter alia*, support for “efforts to address the environmental, economic, health and social impacts and benefits of mining, minerals and metals throughout their life cycle, including workers’ health and safety, and use a range of partnerships, furthering existing activities at the national and international levels, among interested governments, intergovernmental organizations, mining companies and workers, and other stakeholders, to promote transparency and accountability for sustainable mining and minerals development.” **dates:** 7-11 October 2019 **location:** Geneva, Switzerland **www:** <https://www.igfmining.org/>

Sixth Our Ocean Conference: The sixth Our Ocean Conference will highlight the importance of knowledge as the basis of our actions and policies to ensure sustainable future economic growth. The conference will bring together leaders from government, business, civil society, and research institutions to share their experience, identify solutions, and commit to action for a clean, healthy, and productive ocean. **dates:** 23-24 October 2019 **location:** Oslo, Norway **www:** <https://ourocean2019.no/>

Workshop on the REMP for the Area of the Northern Mid-Atlantic Ridge: The ISA, in collaboration with the Atlantic REMP Project and the Government of Portugal, will convene the first workshop on REMP for the Area of the Northern Mid-Atlantic Ridge (MAR). The workshop aims to review and analyze seafloor and water column ecosystem data from MAR. **dates:** 25-29 November 2019 **location:** Evora, Portugal **www:** <https://www.isa.org.jm/workshop/workshop-regional-environmental-management-plan-area-northern-mid-atlantic-ridge>

26th Session of the ISA Assembly and the ISA Council (Part I): The ISA Council will continue discussions on, *inter alia*, the election of members of the LTC, the payment mechanism, and the draft exploitation regulations. **dates:** between 17 February - 6 March 2020 (TBC) **location:** Kingston, Jamaica **www:** <https://www.isa.org.jm/>

High-Level UN Conference to Support the Implementation of SDG 14 (UN Ocean Conference) 2020: The 2020 High-Level UN Conference to Support the Implementation of SDG 14 (life

below water) will convene in Lisbon, Portugal. The overarching theme of the Conference is, “Scaling Up Ocean Action Based on Science and Innovation for the Implementation of Goal 14: Stocktaking, Partnerships and Solutions.” **dates:** 2-6 June 2020 **location:** Lisbon, Portugal **www:** <https://oceanconference.un.org/>

26th Session of the ISA Assembly and the ISA Council (Part II): The ISA Assembly and Council will continue discussions on, *inter alia*, the payment mechanism and the draft exploitation regulations. **dates:** between 6-31 July 2020 (TBC) **location:** Kingston, Jamaica **www:** <https://www.isa.org.jm/>
For additional upcoming events, see <http://sdg.iisd.org/>

Glossary

ADSR Area	Africa Deep-Seabed Resources Seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction
BBNJ	Biodiversity of areas beyond national jurisdiction
CBD	Convention on Biological Diversity
CCZ	Clarion-Clipperton Zone
DOSI	Deep Ocean Stewardship Initiative
DSCC	Deep Sea Conservation Coalition
EIA	Environmental impact assessment
FSM	Federated States of Micronesia
GESAMP	Group of Experts on the Scientific Aspects of Marine Environmental Protection
GRULAC	Latin American and Caribbean Group
IASS	Institute for Advanced Sustainable Studies
IMO	International Maritime Organization
IOC	Intergovernmental Oceanographic Commission of UNESCO
IPBES	Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services
IPCC	Intergovernmental Panel on Climate Change
ISA	International Seabed Authority
IUCN	International Union for Conservation of Nature
LTC	Legal and Technical Commission
MSR	Marine scientific research
REMP	Regional environmental management plan
SDGs	Sustainable Development Goals
SIDS	Small island developing states
UNCLOS	UN Convention on the Law of the Sea