



Finance Committee

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Draft proposal to establish an International Seabed Authority Endowment Fund

Note by the Secretariat

1. In his annual report to the eleventh session of the International Seabed Authority (ISBA/11/A/4), the Secretary-General drew attention to the limited role of scientists from developing countries that are members of the Authority in marine scientific research in the Area. Moreover, the Secretary-General noted that some of the techniques used for research in the Area could be applied to address similar matters in the exclusive economic zones of many developing countries. In order to enable the Authority to better promote and encourage marine scientific research in the Area, it was proposed that a trust fund be established that could be used, among other things, to provide opportunities for qualified scientists from institutions in developing countries to participate in research activities conducted by international scientists at sea or in laboratories of scientific institutions. Preference would be given to scientists affiliated with universities or research institutions in developing countries who, in turn, could pass on the knowledge acquired or apply it to national endeavours.

2. The Assembly of the Authority requested the Secretary-General to make a detailed proposal for the establishment of an endowment fund for the consideration of the Finance Committee at the twelfth session. It was proposed that that fund would be established using the balance available in the fund for fees paid by the former registered pioneer investors (the pioneer investor fund).

I. Status of the fund for fees paid by the registered pioneer investors

3. In accordance with the provisions of paragraph 7 (a) of resolution II of the Third United Nations Conference on the Law of the Sea, each of the former registered pioneer investors paid to the Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea

(“Preparatory Commission”) an application fee for registration. The application fees were placed in a trust account administered by the Organization in accordance with the Financial Regulations and Rules of the United Nations and, mutatis mutandis, the rules applicable to the management of trust funds. In 1997, following the establishment of the Authority, the balance of the funds remaining in the account was transferred to the Authority.

4. The Finance Committee was provided with a detailed note on the history of the pioneer investor fund at its meeting in 2005. The note also explained that the balance remaining in the fund, together with the interest earned thereon, has been maintained in a separate bank account pending a full accounting of all the expenditures incurred by the Preparatory Commission for the processing of the applications as well as the expenses incurred in processing applications for the approval of the plans of work for exploration submitted by former registered pioneer investors.

5. A full accounting of expenditures incurred in processing pioneer investor application since 1984 has now been carried out. The Secretary-General has also held consultations with the contractors on the proposal and on the status of the pioneer investor fund. As a result, the Secretary-General is now in a position to issue a certification on the fulfilment of the original purposes of the fund.

6. As at the date of the last audit statement (31 December 2005), the balance of the pioneer investor fund stood at \$2,880,958, including cumulative interest of \$1,412,121.

7. In addition to the fees paid by former registered pioneer investors, a fee of \$250,000 was paid by Germany in 2005 for the processing of a plan of work for exploration for polymetallic nodules. This had been held by the Authority in escrow since payment pending the elaboration of the present proposal.

II. International Seabed Authority Endowment Fund

8. The current proposal is to consolidate the balance presently available in the pioneer investor fund and the balance of the German application fee and to use the consolidated balance as the initial capital for the International Seabed Authority Endowment Fund. The Fund would remain open in perpetuity for additional capital contributions from members of the Authority, other States, relevant international organizations, non-governmental organizations, academic, scientific and technical institutions, philanthropic organizations and individuals. It is hoped that over time the Fund would grow to a substantial amount.

9. The Fund would be managed and administered in accordance with the Financial Rules and Regulations of the Authority. Special rules of administration, to be adopted by the Assembly, would define, in broad terms, the purposes of the Fund. Income from the Fund would be utilized for appropriate purposes, as decided from time to time by the Assembly on the recommendation of the Council and the Finance Committee. Primarily, these purposes would be to promote marine scientific research in the Area and provide opportunities for qualified scientists from institutions in developing countries to participate in research activities conducted by international scientists at sea or in laboratories of scientific institutions. It would be necessary in due course to draw up detailed procedures covering the submission of

applications for funding, qualification criteria and the evaluation and selection of projects.

10. It is proposed that the balance of any income not expended in any year would be carried forward to the following year, up to a maximum of two years, where it would remain available for use. Any income remaining unused for more than two years would be added to the capital value of the Fund.

11. In addition, however, it is proposed that a small portion of the annual income be available, as necessary, to supplement the voluntary trust fund established by the Assembly for the participation of members of the Finance Committee and the Legal and Technical Commission from developing countries. The voluntary trust fund was established in 2002, following a request by the Assembly, to enhance the participation of members from developing countries in the meetings of the Legal and Technical Commission and the Finance Committee.¹ Contributions of \$52,800 have been made to the voluntary trust fund, but in both 2003 and 2004 it was necessary for the Assembly, on the recommendation of the Finance Committee, to authorize, on an exceptional basis, advances of \$75,000 and \$60,000 to be paid into the voluntary trust fund from accumulated interest on the pioneer investor fund.

12. While it is to be hoped that further voluntary contributions would be forthcoming to make the voluntary trust fund self-sustaining, it is proposed that, for the time being, the Assembly give itself the flexibility to use part of the income from the Endowment Fund to supplement the voluntary trust fund. On the premise that the current income of the Fund would be in the region of \$150,000, it is recommended that a maximum of \$50,000 be available for this purpose. Any more than this would mean that insufficient funds would be available to meet the primary purposes of the Endowment Fund. It is to be noted that any allocation of income for this purpose would need to be decided by the Assembly on the recommendation of the Finance Committee. It should also be noted that an amount less than \$50,000 could be utilized, or even nothing at all, depending on the status of the voluntary trust fund.

III. Establishment of the Fund

13. It is proposed that the Fund be established by a decision of the Assembly to that effect. The draft of such a decision is contained in the annex to the present note. The decision would provide for the establishment of the Fund, state the object and purposes of the Fund and set out the basic rules for its administration and management. It would be necessary to develop additional rules and procedures for the use of the income from the Fund. These would cover detailed matters such as the form in which proposals for funding are to be submitted, eligibility and selection criteria and the procedures whereby the Secretary-General is to deal with applications and submit them for consideration by the relevant organs of the Authority. The draft decision would require the Secretary-General to prepare such rules and procedures and submit them to the Authority at its next session.

¹ Provisional terms and conditions for the use of the fund were adopted by the Assembly, on the recommendation of the Finance Committee, in 2003 and amended in 2004. The terms and conditions are contained in the annex to document ISBA/9/A/5-ISBA/9/C/5.

Annex

Draft decision of the Assembly of the International Seabed Authority relating to the establishment of the International Seabed Authority Endowment Fund

The Assembly of the International Seabed Authority,

Recalling the duty of the Authority pursuant to article 143, paragraph 2, of the United Nations Convention on the Law of the Sea to promote and encourage the conduct of marine scientific research in the Area,

Emphasizing that marine scientific research in the Area shall be carried out exclusively for peaceful purposes and for the benefit of mankind as a whole,

Recalling the duty of States parties to the Convention pursuant to article 143, paragraph 3, of the Convention, to promote international cooperation in marine scientific research in the Area by, inter alia, ensuring that programmes are developed through the Authority for the benefit of developing States and technologically less developed States,

Desirous of facilitating the participation of qualified scientists and technical personnel from developing countries in international marine scientific research programmes and providing opportunities for international technical and scientific cooperation with regard to activities in the Area, including through training, technical assistance and scientific cooperation programmes,

1. *Decides* to establish the International Seabed Authority Endowment Fund;

2. *Also decides* that the purposes of the Fund shall be to promote and encourage the conduct of marine scientific research in the Area for the benefit of mankind as a whole, in particular by supporting the participation of qualified scientists and technical personnel from developing countries in international marine scientific research programmes and by providing opportunities for international technical and scientific cooperation with regard to activities in the Area, including through training, technical assistance and scientific cooperation programmes;

3. *Further decides* that the initial capital of the Fund shall comprise the balance remaining as at 18 August 2006 from the application fees paid by pioneer investors of the Third United Nations Conference on the Law of the Sea to the Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea pursuant to paragraph 7 (a) of resolution II, as well as the unexpended balance of the application fee paid to the Authority by the Federal Republic of Germany for the processing of an application for approval of a plan of work for exploration pursuant to regulation 19 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, together with interest accrued thereon;

4. *Decides* that the administration, utilization and control of the Fund shall be governed by the Provisional Rules of Administration of the International Seabed Authority Endowment Fund, which are contained in the annex to the present decision, and in accordance with the Financial Rules and Regulations of the International Seabed Authority;

5. *Invites* members of the Authority, other States, relevant international organizations, non-governmental organizations, academic, scientific and technical institutions, philanthropic organizations and individuals to make contributions to the Fund;

6. *Requests* the Secretary-General to prepare, for consideration by the Council and the Assembly, terms of reference, guidelines and rules for the operation of the Fund.

Annex

Provisional rules of administration of the International Seabed Authority Endowment Fund

1. Application of rules

These rules shall govern the administration and control of the International Seabed Authority Endowment Fund established by the Assembly in accordance with its decision of ... August 2006.

2. General purposes

The general purposes for which the Fund is established shall include:

(a) The custody and control of the initial capital of the Fund together with such other sums as may be designated for the purposes of the Fund and all voluntary contributions, gifts, bequests or other allocations of money or property which may from time to time be received for such purposes;

(b) The collection of income accruing to the Fund and the allocation of such income for the purposes of the Fund;

3. Capital and investments

(a) The capital value of the Fund shall be established in United States dollars on the basis of the value of the initial capital as at 18 August 2006. Voluntary contributions, gifts, bequests and other allocations of money or property received by the Fund subsequent to 18 August 2006 shall be added to the capital of the Fund and valued on the basis of the market value of the investments or other property received as at the date of the effective transfer to the International Seabed Authority. Items expressed in other currencies shall be converted into United States dollars at the mean rate of exchange as at the transfer date. All investments purchased by the Fund shall be recorded at cost;

(b) The Fund shall be administered in accordance with the Financial Regulations and Rules of the International Seabed Authority;

4. Income and expenditure

(a) The income of the Fund shall be used only for the purposes of the Fund. Subject to subparagraph 4 (b) below, the whole accumulated income of the Fund shall be available for such purposes as authorized in accordance with the guidelines and rules for the operation of the Fund adopted by the Assembly;

(b) Any balance of income not expended in any year shall be carried forward to the following year and remain available for a period of two years. At the end of

two years, any unexpended income shall be added to the capital of the Fund and shall not be available for distribution;

(c) The Assembly, on the recommendation of the Finance Committee and the Council, may decide in any year to allocate not more than 50,000 dollars from the income of the Fund for that year to supplement the voluntary trust fund for the purpose of defraying the cost of participation of the members of the Legal and Technical Commission from developing countries and the members of the Finance Committee from developing countries in the meetings of the Commission and of the Committee.

5. Accounts

(a) Separate accounts shall be maintained to record the capital and income transactions of the Fund and the assets of the Fund shall be segregated from the general assets of the International Seabed Authority;

(b) The annual accounts of the International Seabed Authority shall include in respect of the Fund:

- (i) A statement as to the investment of the Fund;
- (ii) A statement showing the application of the income of the Fund against expenditures, which statements shall be audited in the same manner as the general accounts of the International Seabed Authority.
