INTERNATIONAL SEABED AUTHORITY ENDS SEVENTEENTH SESSION IN KINGSTON

Approves four new exploration contracts in deep seabed Area -
Agrees to convene special meeting next year to commemorate thirtieth anniversary of opening for

- Work on cobalt-rich crusts regulations to continue in 2012
- Next session scheduled for 9 to 27 July 2012 in Kingston

Exploration contracts for marine minerals are to be issued to four new entities following approval
of their applications by the International Seabed Authority as it wound up its 17th session on Friday, 22
July 2010 in Kingston, Jamaica (11-22 July).

The Authority’s executive Council was unable to complete its work on draft regulations on
prospecting and exploration for cobalt-rich ferromanganese crusts, reaching agreement on all provisions,
except those dealing with “Certificate of sponsorship” (regulation 11); “Total area covered by application”
(regulation 12); “Fee for application” (regulation 21); and “Size of area and relinquishment” (regulation
27).

In a series of decisions this morning, the legislative arm of the Authority, the Assembly, agreed:

- to a proposal by the Group of 77 and Jamaica to convene a special meeting during the
eighteenth session to commemorate the thirtieth anniversary of the opening for signature on 10 December 1982 in Montego Bay, Jamaica of the 1982 United Nations Convention of the
Law of the Sea. The Authority’s Secretary-General was requested to undertake activities in
observance of the anniversary.

- that preparations should start on the formulation of a mining code for exploitation of deep sea
minerals in the international seabed Area.

- to endorse the election by the Council of 25 members to serve on the expert organ, the Legal
and Technical Commission, for five years beginning from 1 January 2012 to 31 December

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- 2016. It similarly elected 15 members of the Finance Committee also to serve for five years, from 1 January 2012 to 31 December 2016.

Malawi and Thailand were welcomed as the Authority’s newest members, bringing the total membership to 162 – 161 member States and the European Union.

The Center for Oceans Law and Policy of the University of Virginia, United States was admitted as an observer.

The next session of the Authority was scheduled for 16 to 27 July 2012.

Decisions

Acting on the recommendations of the Council, the Assembly adopted a decision relating to financial and budgetary matters by which members of the Authority were urged to pay their assessed contributions to the budget on time and in full; others in arrears from prior periods (1998-2010) to pay as soon as possible, and appointed, on the recommendations of the Council and the Finance Committee, PricewaterhouseCoopers as independent auditor for another two years - 2011 and 2012. The auditors were requested to express, in future reports, an opinion on the effectiveness of the internal controls of the Authority.

In other actions, the Assembly, at its final meeting, adopted decisions of the Council, including, approval of the applications of four entities for plans of work to explore polymetallic nodules and polymetallic sulphides in the international seabed Area. The Secretary-General was requested to issue them with plans of work in the form of contracts with the Authority in accordance with the relevant regulations.

The entities include Nauru Ocean Resources Inc., sponsored by the Government of Nauru and Tonga Offshore Mining Limited, sponsored by the Government of Tonga, both for exploration of polymetallic nodules in reserved areas of the Clarion-Clipperton Zone - the first such undertaking by private sector entities sponsored by developing States.

Two other entities will be issued with exploration contracts for polymetallic sulphides in the Area. These are China Ocean Minerals Resources Research and Development Association, and the Ministry of Natural Resources and the Environment of the Russian Federation.

The four new contractors will join eight contractors already at work in the international deep sea area since the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area were adopted by the Authority on 13 July 2000. Regulations for Prospecting and Exploration of Polymetallic Sulphides were adopted in 2010.

Some highlights of the session

Among the highlights of the session were the discussions, both in the Legal and Technical Commission and the Council, of the Advisory Opinion on responsibilities and obligations of States sponsoring activities in the Area rendered on 1 February 2011 by the Seabed Disputes Chamber of the Hamburg-based International Tribunal for the Law of the Sea.
There were elections of members of the Legal and Technical Commission and the Finance Committee who will serve five-year terms beginning from 1 January 2012 to 31 December 2016; statements to the Assembly by the Minister of State at the Ministry of Foreign Affairs and Foreign Trade of Jamaica, Marlene Malahoo-Forte, and to the Council by the Minister of Commerce, Industry and Environment, Dominic Tabuna, of Nauru. Two experts from China on 15 July 2011 gave a presentation on the technical and economic aspects of cobalt crust mining and processing.

Council

At its first organizational meeting on 12 July, the 36-member Council elected Andrzej Przybycin (Poland) as President for the seventeenth session. He is Deputy Director of the Department of Geology and Geological Concessions in his country’s Environment Ministry. The Vice-Presidents elected were Australia, representing the Western European and Others Group, Bangladesh for the Asian Group; Jamaica for Latin American and Caribbean States; and Côte d’Ivoire for the African Group.

The Council elected Russell Howorth (Fiji), to fill the seat in the Legal and Technical Commission left vacant by the resignation of his compatriot Isikeli Uluinairai Mataitoga. Mr. Howorth will serve the remainder of the term until December 31, 2011.

The Council began the first of its five meetings on the draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts on 14 July. In a report to the final plenary of the Assembly on 22 July, Council President Andrzej Przybycin (Poland), said it carried out a detailed reading of the entire text of the draft regulations, with the exceptions of draft regulations 11 (Certificate of sponsorship); 12 (Total area covered by the application), regulation 21 (Fee for applications), and regulation 27 (size of area and relinquishment).

It was also noted, he said, that it would be necessary in due course to adopt a decision of the Council to deal with the possibility of overlapping claims, as had been done in the case of the regulations on polymetallic sulphides.

Draft regulations for cobalt-rich crusts

The draft Regulations on Prospecting and Exploration for Cobalt-rich ferromanganese Crusts in the Area (document ISBA/16/C/WP.2) were submitted by the Legal and Technical Commission in 2009 for consideration by the Council at the Authority’s sixteenth session last year. The Council was not able to complete that undertaking.

The text of the draft Regulations on prospecting and exploring for cobalt-rich crusts consists of a preamble and 44 regulations organized into ten parts and four annexes. The Preamble sets out the principles underlying the Regulations – that the resources of the international seabed Area are the common heritage of mankind and that activities there are for the common benefit of all mankind.

The draft Regulations contain provisions that stress the freedom of marine scientific research in the Area and the exercise of freedom of the high seas; and lay out the legal rules that potential prospectors must follow to gain a contract. The protection and preservation of the marine environment are covered under several regulations.
Advisory Opinion of Seabed Disputes Chamber

On 14 July members of the Council exchanged views on the landmark Advisory Opinion on responsibilities and obligations of States sponsoring activities in the Area which was rendered by the Seabed Disputes Chamber of the Hamburg-based International Tribunal for the Law of the Sea on 1 February 2011.

Introducing the subject at the Council’s first substantive meeting, Secretary-General, Nii Allotey Odunton said the advisory opinion provided an important clarification of some of the more difficult aspects of the United Nations Convention on the Law of the Sea and the 1994 Agreement relating to the Implementation of Part XI of the Convention.

The universal reaction to the opinion, including from academia, members of the Authority and the seabed mining industry, had been positive, providing much-needed and long-awaited certainty in the interpretation of the obligations and responsibilities of sponsoring States under the Convention and the Agreement. It was an encouraging sign for the Authority and its members, not least because it suggested that the commercial sector was developing confidence in the legal regime for the orderly development of the resources of the Area that had been put in place over the past 13 years, he added.

In its unanimous advisory opinion, the Chamber listed important direct obligations of sponsoring States, among which were assistance to the Authority in the exercise of control over activities in the Area; the obligation to apply a precautionary approach; applying the best environmental practices; and ensuring the availability of recourse for compensation in respect of damage caused by pollution, as well as an obligation to conduct environmental impact assessments). The text of the dispositive of the Chamber’s advisory opinion is annexed to secretariat document ISBA/17/C/6 - ISBA/17/LTC/5.

The Council instituted the proceedings before the Seabed Disputes Chamber in a decision taken at its sixteenth session last year, pursuant to article 191 of the United Nations Convention on the Law of the Sea. It was in response to a proposal originally submitted by the delegation of Nauru. The Chamber was requested to render an advisory opinion on three legal questions relating to the obligations and responsibilities of States sponsoring activities in the Area

The Chamber, a separate judicial body within the International Tribunal for the Law of the Sea, was established in accordance with Part XI, section 5, of the United Nations Convention on the Law of the Sea and article 14 of the Statute. It has jurisdiction in disputes with respect to activities in the Area, and is entrusted with the exclusive function of interpreting Part XI of the Convention and the relevant annexes and regulations that are the legal basis for the organization and management of activities in the Area.

Legal and Technical Commission report

The Commission, which also considered the Advisory Opinion of the Seabed Disputes Chamber at its closed meetings preceding the Authority’s session, drew attention to related issues which needed to be incorporated into its future work programme: adjustments to the Nodules and Sulphides regulations to bring them in line with respect to environmental practices and protection of biodiversity, as well as the further development of the precautionary approach. It said that a list of such necessary revisions should be prepared by the secretariat for its consideration at the eighteenth session.

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It also said the Authority as part of its work programme should prepare a model legislation to assist sponsoring States to fulfill their obligations as outlined in the advisory opinion of the Seabed Disputes Chamber.

The Commission should consider the suggestion by the Disputes Chamber for the creation of a mechanism to compensate for damage for which neither the contractor nor the sponsoring State was responsible.

In its evaluation of the annual reports of the eight contractors, the Legal and Technical Commission found that a majority had largely followed the general format prescribed by the Commission. Progress was still needed in the area of technology-related issues, particularly with respect to mining and metallurgical processing of nodules.

It laid out certain tasks for the Authority’s secretariat: preparation of an updated version of the draft guide for contractors for assessment of possible environmental impacts arising from exploration for polymetallic sulphides. Establishment of a protocol for contractors on the collection and management of data; and preparation of a report, including an indicative five-year work programme for the incoming new members of the Commission in 2012.

The Commission produced a report on the Environmental Management Plan for Clarion-Clipperton Zone (ISBA/17/LTC/7) which was the focus of extensive discussion in the Council. Some Council members had reservations on the plan, stating that it was premature, and not based on sufficient scientific information. In the end the plan was not approved by the Council. The Commission said the proposed plan was consistent with the obligations, responsibilities, rules, regulations and procedures formulated in the United Nations Convention on the Law of the Sea and its associated Agreements and regulations.

Developed at a 2007 workshop, the plan was based on widely applied principles for the design of marine protected area networks, and included an element to protect 30 to 50 per cent of the total management area. The goals of the plan included facilitation of exploitation of seabed mineral resources in an environmentally responsible manner, consistent with the legal framework and environmental guidelines of the Authority for managing deep-sea nodule mining and protecting deep-sea environment.

**Report of the Finance Committee**

The Finance Committee, which held its meetings in closed session under its outgoing Chairman, Hasjim Djalal (Indonesia), made a number of recommendations in its report to the Council and the Assembly. It strongly encouraged members of the Authority to make voluntary contributions to the Endowment and Voluntary Trust Funds of the Authority.

It authorized the Secretary-General to make an advance payment of up to $30,000 from the interest accrued from the Endowment Fund to supplement the Voluntary Trust Fund which was $20,231 as at 30 June 2011. The Voluntary Trust Fund was established in 2002 to enhance the participation of members of the Finance Committee and the Legal and Technical Commission from developing countries in the work of the two bodies.

The balance of the Endowment Fund for Marine Scientific Research in the Area was $3,355,015 as at 30 June 2011, including accrued interest of $90,477. The Endowment Fund, established by Assembly resolution ISBA/12/A/11 of 16 August 2006, is intended to support the participation of qualified scientists and technical personnel from developing countries in approved marine scientific research programmes, including through training, technical assistance and scientific cooperation.

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The Finance Committee urged members of the Authority to pay their assessed contributions to the budget on time and in full. They were also to pay outstanding contributions to the budget from previous years as soon as possible. (In his report to the Assembly on 18 July, the Secretary-General said that as at 15 July 2011, 79.7 per cent of the value of contributions to the 2011 budget due from member States and the European Union had been received from 76 of the 162 members. He added that approximately one quarter were in arrears for a period of two years or more).

The Finance Committee recommended the appointment of PricewaterhouseCoopers as independent auditors for another two years to audit the 2011 and 2012 financial statements of the Authority. The auditors were to be requested to express, in future reports, an opinion on the effectiveness of the internal controls of the Authority.

The Committee expressed its appreciation to the Secretary-General for his report to it on the implementation of the budget and the efforts being made to effect savings in the Authority’s budget during the 2011-2012 financial years.

Elections

The Council elected 25 candidates whose names had been submitted to serve on the Legal and Technical Commission for the next five years. The terms of office of the current members will end on 31 December 2011. The newly-elected members will serve from 1 January 2012 to 31 December 2016.

The membership of the Commission will therefore be as follows (an asterisk denotes a re-elected member):

Adesina Thompson Abdegbie (Nigeria); Farhan M.S. Al-Farhan (Saudi Arabia); *David Billett (United Kingdom); Harald Brekke (Norway); Winifred M. Broadbelt (Netherlands); Aleksander Čičerov (Slovenia); Domenico Da Empoli (Italy); *Laleta Davis-Mattis (Jamaica); Kaiser De Souza (Brazil); *Elva Escobar (Mexico); Russell Howorth (Fiji); Kiseong Hyeong (Republic of Korea); Elie Jarnache (France); *Emmanuel Kalngui (Cameroon); *Denis Gennadyevich Khramov (Russian Federation); *Eusebio Lopera (Spain); Pedro Madureira (Portugal); Hussein Mubarak (Egypt); *Nobuyuki Okamoto (Japan); Mario Oyarzábal (Argentina); *Andrzej Przybycin (Poland); *Christian Reichert (Germany); Cristian Rodrigo (Chile); *Maruthadu Sudhakar (India); Joshua Tuhumwire (Uganda); *Haiqi Zhang (China).

Members leaving the Commission at the end of their current term are:
Jean-Marie Auzende (France); Miguel dos Santos Alberto Chissano (Mozambique); Baïdy Diène (Senegal); Sandor Mulso Flores (Chile); Kennedy Hamutenya (Namibia); Said S. Hussein (Kenya); Asif Inam (Pakistan); Woong-Seo Kim(Republic of Korea); Walter de Sa Leitao (Brazil) Frida Maria Armas-Pfirter (Argentina) Mahmoud Samy (Egypt); Elena Sciso (Italy); Adam Mulawarman Tugio (Indonesia)

The elections of the new Commission were deemed especially important as the Commission was moving into a new, more substantive and technical phase of its work. The Commission would have a long-term impact on the future work of the Authority.

In accordance with article 163 and article 165, paragraph 1, of the 1982 United Nations Convention on the Law of the Sea, the members of the Legal and Technical Commission are elected by the Council from among the candidates nominated by the States parties for a term of five years.
Commission members are nominated by States but serve as experts rather than national representatives. They are required by the Convention to “have appropriate qualifications such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related fields of expertise”. They may serve for up to two consecutive five-year terms.

The Commission originally had 15 members (pursuant to article 163, paragraph 2, of the Convention). However, the Council decided in 1996 to increase the membership on from 15 to 22 without prejudice to future elections. The Commission gained another member in 1999 at the request of the Group of Latin American and Caribbean States which felt that those countries were not adequately represented on the Commission. At the next election in 2001, the Council decided to increase the size of the Commission to 24 members, and in 2006 the number was increased to 25 members.

During the sixteenth session in 2010, the Council considered the question of the size and composition of the Commission, and agreed that for the 2011 election, the size of the Commission may be increased, having due regard to economy and efficiency, up to 25 members without prejudice to future elections.

**Expert briefings**

A team of Chinese experts from the Beijing General Research Institute of Mining and Metallurgy Chinese gave a presentation on 15 July on the “Technical and Economic Evaluation of Cobalt-Crust Mining and Processing.” They were brought in by the Chinese delegation to buttress their arguments on the need for revisions to Regulation 12 of the draft Cobalt crusts text which deals with total area covered by the application of a plan of work, and for delegations to ask questions.

The first presentation made by Kaixi Jiang, highlighted the economic viability of a mining operation for cobalt-rich ferromanganese crusts for 20 years with annual crust production of one million wet tones (Assumed scale in ISBA/12/C/3/Part 1). It covered market trends of the related metals and minerals, investments estimation, operation costs estimation, and analysis on investment effects.

In the second presentation, Professor Gaowen He outlined the components used to construct the Model Mine Site: crust grade, crust thickness and slope. He stated that the only areas with a grade of at least 0.5 per cent cobalt, a thickness of 4 cm and a slope equal to or less than 20 degrees were considered “mineable areas”, that is, viable for exploitation.

**Assembly**

The Authority began its seventeenth session on 12 July 2011 with the election of Peter Thomson, Permanent Representative of Fiji to the United Nations, as President of the Authority’s 162-member Assembly. He was nominated by the representative of Bangladesh on behalf of the Asian Group. Four Vice Presidents elected were Ghana, representing the African Group, and Belgium, Chile and the Russian Federation, their respective groups.

In another election, David C.M.Wilkens (Germany) replaced his compatriot on the Finance Committee, Michael Hackethal, who had resigned. Mr. Wilkens will serve the remainder of the term until December 31, 2011.
A nine-member Credentials Committee was appointed on 18 July. The members are Argentina, Brazil, Germany, Kenya, Namibia, New Zealand, Republic of Korea, Russian Federation and Saudi Arabia.

**Statement by Jamaican Minister of State**

Addressing the Assembly at the outset of the debate on the Secretary-General’s report, Marlene Malahoo Forte, Minister of State at the Ministry of Foreign Affairs and Foreign Trade of Jamaica, disclosed that Jamaica would introduce a resolution during the session to encourage the commemoration of the 30th anniversary of the United Nations Convention on the Law of the Sea in 2012. A similar resolution would also be tabled at the United Nations in New York to have a commemorative meeting convened on 10 December 2012. The Convention was opened for signature on 10 December 1982 at Montego Bay, Jamaica. The Minister encouraged other Member States to mark the occasion to raise awareness about the Convention and the International Seabed Authority which was established by the Convention.

**Secretary-General’s report**

The Secretary-General’s report, submitted to the Assembly under article 166, paragraph 4 of the United Nations Convention on the Law of the Sea, was debated by the Assembly at two meetings on 18 July. The report reviews the Authority’s activities since the last session and outlines its plans and projects under the current work programme (2011-2013).

It also covers administrative matters, the Authority’s budget as well as special funds held by it such as the Voluntary Trust Fund, and the Endowment Fund for Scientific Research. As at 31 May 2011, there were 162 members of the Authority (161 States and the European Union). On the same date, there were 141 parties to the 1994 Agreement. Since the last session, Malawi and Thailand have become parties to the Convention and the Agreement (28 September 2010, 15 May 2011, respectively) and Angola has become party to the 1994 Agreement (7 September 2010).

Introducing the report in the Assembly plenary on 18 July, Secretary-General Nii Allotey Odunton (Ghana), said private sector interest in the potential for deep seabed mining had increased over the past year as evidenced by the renewed applications from two entities (the Nauru and Tonga companies) and numerous enquiries about possible applications for exploratory contracts in the International Seabed Area. There had also been an increased interest on the part of deep ocean technology companies in participating in workshops organized by the Authority as the global economy continued to recover.

Mr. Odunton also said that with the increased level of commercial interest in seabed mining, the Authority had come under increased pressure to deliver an appropriate level of environmental protection for the Area – marine areas beyond national jurisdiction that cover a large portion of the surface of the earth. In this regard, he appealed to the Authority’s contractors to make available to the Authority the data and information that they had acquired on the biodiversity in their contract areas to facilitate taxonomic standardization and policy formulation. He said proposals for an environmental management plan for the Clarion-Clipperton Zone and for the management of chemosynthetic environments in the global oceans were measures that were under consideration in the absence of actual data on biodiversity, gene flow and species distribution.

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In an overview of its substantive programme of work for the period 2011-2013, the report states that the Authority continues to focus primarily on the scientific, technical, legal, and policy work necessary for it to carry out its functions under the Convention and the 1994 Agreement. Its functions include supervision of exploratory contracts; progressive development of the regulatory regime for activities in the Area; promotion and encouragement of marine scientific research in the Area; and database development; as well as monitoring of trends and developments relating to deep seabed mining activities.

A project under consideration was a preliminary study of some of the issues associated with the development of an exploitation code, to be followed by a workshop or seminar to review it. This might take place in the second quarter of 2012.

The secretariat also intends to produce a user’s guide to the regulatory regime for deep seabed mining which will explain the system for prospecting, exploration and exploitation, with reference to the Convention, the Part XI Agreement and the Regulations. The guide will also explain the process for applying for exploration licence, its terms and conditions, including provisions relating to environmental protections, and the steps contractors are required to take to comply with them.

It had been proposed, as part of the 2011-2013 work programme, to convene an expert group meeting in 2012 - subject to availability of resources- to help prepare draft recommendations to the Council and the Assembly on the implementation by the Authority of Article 82, paragraph 4, of the Convention.

Under Article 82 of the Convention, States or individual operators who exploit the non-living resources of the outer continental shelf are required to contribute a portion of the revenues they generate from such exploitation for the benefit of the international community as a whole. Paragraph 4 of the article explains that the payments or contributions are to be made through the Authority, which will distribute them to States Parties to the Convention, on the basis of equitable sharing criteria.

Finance Committee elections:

The following Finance Committee members who were elected on 22 July, will serve for four years 2012-2016:

Frida María Armas-Pfirter (Argentina); Reinaldo Storani, (Brazil); Jinsong Yao (China). Kavina Pavel, (Czech Republic); David C. M. Wilkens, (Germany); Pradip K Choudhary, (India); Francesca Graziani, (Italy); Trecia Elliott, (Jamaica); Yamanaka Shinichi (Japan); Aung Zaw Minn (Myanmar); Olav Myklebust, (Norway); Aleksey P. Bakanov, (Russian Federation); Duncan M. Laki, (Uganda); and Chris Whomersley, (United Kingdom).

Request for observer status

The Assembly approved a request by the Center for Oceans Law and Policy for observer status to participate in its work. Founded in 1976, the Center, based at the University of Virginia, United States, supports research, education and discussion of policy and legal issues relating to the oceans.

Credentials Committee report

Also this morning, the nine-member Credentials Committee was appointed. They are Argentina, Brazil, Germany, Kenya, Namibia, New Zealand, Republic of Korea, Russian Federation and Saudi Arabia.
Of the Authority’s 162 members, the credentials of 66 had been received by the Secretariat. The Credentials Committee’s report (ISBA/17/A/6) was presented by its Chair, Jacqueline Moseti (Kenya). At the seventeenth session, the Credentials Committee comprised Argentina, Brazil, Germany, Kenya Namibia, New Zealand, Republic of Korea, Russian Federation, Saudi Arabia.

Members of the Authority

The ISA membership consists of all parties to the United Nations Convention on the Law of the Sea. The members are listed below, with an asterisk (*) marking those which participated in the session.


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