NEW APPLICATIONS FOR EXPLORATION LICENCES AND DEVELOPMENT OF EXPLOITATION REGIME AMONG SUBSTANTIVE MATTERS TO BE CONSIDERED AT INTERNATIONAL SEABED AUTHORITY’S NINETEENTH SESSION IN KINGSTON

ALSO ON AGENDA ARE AMENDMENTS TO REGULATIONS FOR PROSPECTING AND EXPLORATION FOR NODULES AND PROPOSAL FOR JOINT VENTURE WITH THE ENTERPRISE, THE AUTHORITY’S FUTURE MINING ARM

Challenges posed by effective management of contracts for exploration in the Area and the development of an appropriate exploitation regime are among issues to be dealt with at the nineteenth session of the International Seabed Authority in Kingston, Jamaica, from 15 to 26 July this year.

According to the Authority’s Secretariat, the potential for exploitation of polymetallic nodules, sulphides and cobalt-rich manganese crusts within the deep seabed Area beyond national jurisdiction is “arguably higher now than at any time in history”.

With the earliest polymetallic nodules exploration contracts with the Authority expiring in 2016 and 2017, and contractors likely to proceed to exploitation, it has become urgent for a comprehensive set of regulations to be developed and the Secretariat to be strengthened to handle the anticipated increase in its workload.

The Authority’s 25-member expert Legal and Technical Commission will consider these matters as well as new applications for plans of work for exploration at its meetings from 8 to 12 July. Its recommendations will be examined by the 36-member policy-making Council of the Authority.

Other topics before the nineteenth session include recommendations from the Finance Committee on measures for the recovery of the rising costs associated with the administration and supervision of exploration contracts. The session will also examine revisions to the Regulations on Prospecting and Exploration of Polymetallic Nodules adopted by the Authority in
2000 to bring them in line with the 2010 Regulations for Prospecting and Exploration for Polymetallic Sulphides.

The Authority convened the first of three workshops on taxonomic standardization of fauna associated with polymetallic nodule deposits at Wilhelmshaven, Germany last June with a focus on megafauna. The objectives of the workshop included the following: creation of a standardized system of names for megafauna with associated descriptions and keys that could be used by contractors and the marine scientific researching institutions; collection of representative images for each identified species; and guidelines and procedures for use by prospectors and contractors in applying the standardized nomenclature. The expected outputs from the workshop include, inter alia, a photographic atlas with associated descriptions to be made available as a print product and as an online version for use by the marine scientific researching community, prospectors and contractors; representative images for each identified species, including the locations where different species have been observed; guidelines and procedures for use by contractors, prospectors and the scientific community in applying the standardised nomenclature, and a programme of work to address any gaps in knowledge or understanding. The next two workshops will deal with the taxonomy of macro and meio fauna associated with polymetallic nodule deposits.

The autonomous International Seabed Authority with a membership of 165 came into being on 16 November 1994 upon the entry into force of the 1982 United Nations Convention on the Law of the Sea, as refined by the 1994 Agreement relating to Implementation of Part XI (seabed provisions) of the Convention. Its task is to administer the mineral resources of the deep seabed outside areas of national jurisdiction referred to in the Convention as the “Area”. Under specified provisions of the Convention, the Authority is also empowered to establish global rules, regulations and procedures for the protection and conservation of the marine biological diversity associated with activities in the Area.

Legal and Technical Commission

The Legal and Technical Commission, whose members serve in their personal capacity, will consider a preliminary study of the issues involved in the development of an exploitation code entitled Towards the Development of a Regulatory Framework for Polymetallic Nodules Exploitation in the Area (ISA Technical study 11) which was commissioned by the Secretariat. At the Authority’s eighteenth session in 2012, it was agreed that a work plan be prepared by 2016 for the development of such a code, including a fiscal framework. One of the main recommendations of the study is the development of a staged licensing system for polymetallic nodules exploitation.

Commenting on the study in a statement at the Twenty-Third Meeting of the State Parties to the United Nations Convention on the Law of the Sea in New York, the Authority’s Secretary-General, Nii Allotey Odunton, said an exploration contractor interested in proceeding to exploitation would be required “to first apply for a provisional mining license based upon preparation and submission of a pre-feasibility study and work plans to conduct a detailed bankable feasibility study”.

- more -
On other matters, the Commission will examine three applications for approval of plans of work for exploration submitted by the Government of the Russian Federation (cobalt crusts); United Kingdom Seabed Resources Ltd., sponsored by the United Kingdom (polymetallic nodules), and the Government of India (polymetallic sulphides).

At its earlier session (4-8 February 2013), the Commission recommended for approval by the Council two applications for exploration for cobalt-rich ferromanganese crusts submitted by Japan Oil, Gas and Metals National Corporation (JOGMEC) and China Ocean Minerals Resources Research and Development (COMRA). COMRA has previously been awarded two contracts for the exploration for polymetallic nodules in May 2001, and for polymetallic sulphides in November 2011, respectively.

According to the Secretariat, as of April 2013, the Authority had issued 14 exploratory contracts, covering approximately one million square kilometers of the seafloor. Twelve contracts cover exploration for polymetallic nodules, and two polymetallic sulphides.

The Secretary-General in his annual report to be discussed in plenary by the Assembly of the Authority states that between 2001 and 2010, eight contracts were concluded for exploration for polymetallic nodules with the following qualified applicants: Yuzhmorgeologiya (Russian Federation); the InterOceanoMetal Joint Organization (IOM) (Bulgaria, Cuba, Czech Republic, Poland, Russian Federation and Slovakia); the Government of the Republic of Korea; the China Ocean Mineral Resources Research and Development Association (COMRA) (China); Deep Ocean Resources Development Ltd. (DORD) (Japan); IFREMER (France); the Government of India; and the Federal Institute for Geosciences and Natural Resources of Germany (BGR) (Germany).

The report also states that between 2011 and 2013, the Authority entered into contracts with: Nauru Ocean Resources Inc. (NPRI) signed on 22 July 2011; COMRA (China) signed on 188 November 2011; Tonga Offshore Mining Limited (TOML) (Tonga) signed on 11 January 2012; the Government of the Russian Federation, signed on 29 October 2012; G-Tec Sea Mineral Resources NV (Belgium), signed on 14 January 2013 and US Seabed Resources Ltd. (United Kingdom), signed on 8 February 2013. The report adds that three entities whose plans of work for exploration were approved at the eighteenth session last year will be given contracts as soon as the necessary formalities have been concluded. They are: IFREMER (France), Marawa Research and Exploration Ltd. (Kiribati) and the Government of the Republic of Korea. This would bring the total number of exploration contracts to 17 by the end of 2013. These do not include the applications pending for consideration at the forthcoming nineteenth session.

The exploration contracts are for 15 years. The contractors are required to submit an annual report on their activities, as well as a programme for the training of nationals of developing countries. They are also required, prior to the start of their operations, to submit to the Secretary-General a contingency plan on effective response to incidents arising from their activities in the exploration area. The Legal and Technical Commission reviews the annual reports which are submitted to the Authority’s Secretariat by 31 March each year.

- more -
Council

The Council will take up a report on the Commission’s work, including its recommendations for approval of plans of work by new applicants, proposals on a nodules exploitation regime and amendments to the Nodules Regulations. Another subject is the Commission’s recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area.

The Council will examine a proposal submitted by a Canadian company, Nautilus Minerals Inc. (Nautilus), to form a joint venture with the Enterprise (the future mining arm of the Authority) to develop eight of the reserved area blocks in the Clarion-Clipperton Zone. The terms of the proposal are set out in a draft Heads of Agreement annexed to a report prepared by the interim Director-General of the Enterprise (ISBA/19/C/4).

Under the proposed agreement, Nautilus would work with the Enterprise to develop a proposal for a joint venture operation by 2015, based on sound commercial principles, as required by the 1994 Agreement related to the United Nations Convention on the Law of the Sea. For the proposal to be approved, the Council would have to issue a directive for the independent functioning of the Enterprise in accordance with paragraph 2 of the Annex to the 1994 Agreement.

The Secretary-General in his comments contained in document (ISBA/19/6) recommends that the Council take a decision on the matter in order not to “unnecessarily block access by other qualified applicants to the reserved areas covered by the proposal”. He states also that should the Council proceed with the negotiation of a joint venture operation, it should provide a clear direction on an appropriate interim management or governance structure for the Enterprise in light of the lack of capacity within the existing Secretariat structure. He further recommends that the Council should consider the cost implications of the proposal and in particular how an interim structure may be funded.

In other matters, the Council will be provided with an update of the study of the laws, regulations and administrative measures adopted by sponsoring States and other members of the Authority on activities in the Area which was presented to it at the last session (ISBA/18/C/8). It will also consider recommendations from the Finance Committee on measures for the recovery of costs related to the administration of exploratory contracts with the Authority. The objective is the adoption of a fair and equitable system for dealing with the costs while fully ensuring that it is consistent with the provisions of the Convention and the 1994 Agreement.

Mr. Tobias Pierlings of Germany is expected to be elected President of the Council for 2013. It is the turn of the Latin American and Caribbean Group to designate the Council member that will participate in deliberations without the right to vote in 2013.

- more -
Finance Committee

The Finance Committee at its meetings from 8 to 12 July will review the implementation of the Authority’s budget for the period 2013-2014 and related matters, including implementation of potential cost-saving measures within the Secretariat. It will also examine the audit report for 2012 and make a recommendation on the appointment of an independent auditor for 2013-2014.

The Committee will further make recommendations on a report it requested from the Secretary-General last year concerning measures on the cost of administration and supervision of contracts between the Authority and exploratory contractors.

The Committee will consider a report on the status of the Authority’s two funds: the Voluntary Trust Fund established in 2002 to help members of the Finance Committee and the Legal and Technical Commission from developing countries meet their travel expenses; and the International Seabed Authority Endowment Fund for Marine Scientific Research in the Area.

The Voluntary Trust Fund is made up of voluntary contributions from the Authority’s members and others. The total amount disbursed to date is US$433,299. The last contribution to the Fund of US$150,000 was made in October 2012 by Norway.

The Endowment Fund, established in February 2008, promotes and encourages the conduct of collaborative marine scientific research in the international seabed Area. As at the end of April 2013, the capital of the Endowment Fund stood at $3,387,038. To date, a total of $398,879 has been disbursed from the interest accrued on the capital in the form of awards for projects. A total of 52 scientists or Government officials from developing countries have, to date, been beneficiaries of financing support from the Endowment Fund.

According to the Secretary-General’s report, the Endowment Fund is one of the key mechanisms for enabling capacity-building in the field of marine scientific research in the deep ocean.

Assembly

As of 31 May 2013, there were 165 members of the Authority (164 States and the European Union). Since the Authority’s last session in 2012, Swaziland has ratified the Convention (24 September 2012) and Ecuador acceded to it (24 September 2012). Timor-Leste acceded to the Convention on 8 January 2013.

The Assembly’s agenda includes the proposed revisions to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area; and the annual report of the Secretary-General outlining the activities of the Authority since the last session. It will examine the report of the Finance Committee and hold an election to fill a vacancy on the Committee.
The Assembly will consider recommendations of a workshop on Article 82 of the Convention which was held in Beijing from 26 to 30 November 2012. Under the Article, coastal States or individual operators that exploit the non-living resources of the continental shelf extending beyond 200 nautical miles from the baselines of the territorial sea (the “outer continental shelf”) are required to contribute a proportion of revenues they generate from such exploitation for the benefit of the international community as a whole.

It is the turn of the Eastern European Group to nominate a candidate for the Presidency of the Assembly.

Two major achievements of the Authority in 2012 were the adoption of Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese Crusts in the Area and the designation of nine representative areas in the nodule-bearing province of the Pacific Ocean, covering 1.6 million square kilometers, as areas of particular environmental interest where no activity should take place. The adoption of the regulations completed the Authority’s regulatory code governing prospecting and exploration for the three main types of mineral resources found in the Area – polymetallic nodules, polymetallic sulphides, and ferromanganese crusts.

The list of the members of the Authority is as follows:

Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Canada, Cape Verde, Chad, Chile, China, Comoros, Congo, Cook Islands, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Estonia, European Union, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kiribati, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Niue, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Republic of Serbia, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad & Tobago, Tunisia, Tuvalu, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Vanuatu, Vietnam, Yemen, Zambia and Zimbabwe.

* *** *