

Selected Decisions and Documents of the Tenth Session



TENTH ANNIVERSARY
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SELECTED DECISIONS AND DOCUMENTS OF THE TENTH SESSION

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**ISBA/10/A/2-
ISBA/10/C/2**

Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex. Note by the Secretary-General

Date: 4 February 2004

1. Article 156, paragraph 4, of the United Nations Convention on the Law of the Sea provides that the seat of the International Seabed Authority shall be in Jamaica. When the Secretariat of the Authority became operational in 1996, it took over the premises formerly occupied by the Kingston Office for the Law of the Sea, established by the United Nations to service the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. For that purpose, there had been in effect a standard agreement between the Government of Jamaica and the United Nations relating to the use of the premises.

2. At its 8th meeting, on 11 November 1996, the Council formally requested the Secretary-General to negotiate with the Government of Jamaica an agreement regarding the headquarters of the Authority, taking into account the draft of such an agreement prepared by the Preparatory Commission.¹ Following negotiations between the parties, the Headquarters Agreement between the International Seabed Authority and the Government of Jamaica was approved by the Assembly at its 67th meeting, on 25 August 1999.² At that time, the Assembly also accepted the offer of the Government of Jamaica for the use of the Authority's existing premises (i.e. those formerly occupied by the Kingston Office for the Law of the Sea) for the use and occupation of the Authority as its permanent headquarters and requested the Secretary-General to negotiate with the Government of Jamaica, pursuant to article 2 of the Headquarters Agreement, a supplementary agreement concerning the use and occupation of the permanent headquarters.³

3. In October 1999, the Secretary-General invited the Government of Jamaica to commence as soon as possible the negotiations on the supplementary agreement. However, owing to the need to carry out an internal transfer of the title to the proposed headquarters building, it was not until May 2000 that a preliminary round of discussions could take place between the Authority and the Government. Regrettably, it was not possible to reach an early agreement on the parameters of the proposed supplementary agreement and a number of problems emerged which made progress difficult to achieve. Background information on the issues and a complete synopsis of the negotiations may be found in the successive annual reports of the Secretary-General and it is not necessary to rehearse the facts again in the present document.⁴ At the ninth session, in 2003, the Assembly once again expressed its concern about the long delay in completing the supplementary agreement and urged the Secretary-General and the Government of Jamaica to continue their efforts to conclude an agreement as soon as possible.⁵

4. In accordance with the injunction of the Assembly, in September 2003, the Secretary-General and the Government of Jamaica renewed their efforts to reach agreement on the technical aspects of the supplementary agreement. Following detailed, but constructive, negotiations, it was possible to reach agreement on the terms of the agreement by November 2003. Subsequently, at a ceremony at the headquarters of the Authority in Kingston on 17 December 2003, the Agreement was signed by the Secretary-General, on behalf of the Authority, and by the Hon. K. D. Knight, Minister of Foreign Affairs and Foreign Trade, on behalf of the Government of Jamaica. In accordance with its article 19, the Supplementary Agreement shall be applied provisionally upon signature and will enter into force on its approval by the Assembly of the Authority and by the Government of Jamaica.

5. The Supplementary Agreement, the text of which appears in the annex to the present document, contains the following key elements:

(a) The Authority is granted a defined space within the headquarters building rent free for a period of 99 years;

(b) The Authority will be financially responsible only for the space it actually occupies in the headquarters building, with the proviso that additional space will be made available to it in the future if needed;

(c) The Authority will contribute a monthly maintenance contribution fixed at US\$ 4,000 towards the use and occupation of its premises. This payment covers basic utility costs, building management and maintenance services, maintenance of fire alarms, elevators, air conditioning and normal wear and tear. The maintenance contribution may be reviewed by mutual agreement three years from the date of the Agreement and every two years thereafter;

(d) The Authority shall be directly responsible for the payment of electricity consumption within its premises and will contribute a pro rata share of the common area electricity;

(e) The Authority shall have guaranteed use of the Jamaica Conference Centre and its facilities at rates no less favourable than those applied to the Government, its agencies and other local organizations and bodies.

6. The financial implications of the Supplementary Agreement will be considered by the Finance Committee in the context of the proposed budget of the Authority for the financial period 2005-2006. Overall, however, it is expected that there would be no additional cost to the Authority as a result of the Agreement. Further, because the Authority has agreed to pay direct the costs of electricity consumption, which is the largest single cost item, one of the key objectives of ensuring transparency in the attribution of costs has been attained.

7. The Assembly is invited to approve the Supplementary Agreement as contained in the annex to the present document.

Notes

¹ LOS/PCN/WP.47/Rev.2.

² ISBA/5/A/11, para. 1, and annex.

³ Ibid., paras. 2 and 4.

⁴ ISBA/7/A/2, para. 10; ISBA/8/A/5, paras. 11-21; ISBA/9/A/3, paras. 11-14.

⁵ ISBA/9/A/9, para. 8.

ANNEX

SUPPLEMENTARY AGREEMENT BETWEEN THE INTERNATIONAL SEABED AUTHORITY AND THE GOVERNMENT OF JAMAICA REGARDING THE HEADQUARTERS OF THE INTERNATIONAL SEABED AUTHORITY AND THE USE OF THE JAMAICA CONFERENCE CENTRE COMPLEX

In pursuance of the Agreement between the International Seabed Authority (hereinafter called “the Authority”) and the Government of Jamaica (hereinafter called “the Government”) regarding the headquarters of the Authority done at Kingston, Jamaica, on the 26th day of August 1999 (hereinafter called “the Headquarters Agreement”);

Considering that, pursuant to article 2 of the Headquarters Agreement, the Government undertook to grant to the Authority, for the permanent use and occupation of the Authority, such area and facilities as may be specified in supplementary agreements concluded for the purpose;

Desiring therefore to conclude such an agreement, supplementing the Headquarters Agreement, in order to regulate the terms under which the Authority may use and occupy its headquarters and setting out the terms and conditions under which the Authority shall have the use of facilities of the Jamaica Conference Centre for the purpose of its meetings;

Now therefore, the Parties hereto agree as follows:

Article 1 Use of terms

1. The terms used in this Agreement shall have the same meaning as those in the Headquarters Agreement.
2. This Agreement includes the annexes to this Agreement, which shall be an integral part hereof.

Article 2 Purpose and scope

This Agreement serves to set out the terms and conditions governing the use and occupancy by the Authority of the premises granted by the Government as the permanent headquarters of the Authority in Kingston, Jamaica, and the use of the Jamaica Conference Centre by the Authority for the purposes of its activities.

Article 3 Grant of premises

The Government hereby grants to the Authority for a period of 99 years free of rent and all other charges except as provided for in this Agreement all the premises more particularly described in annex I hereto (hereinafter referred to as “the Premises”) for use as the permanent headquarters of the Authority in Kingston, Jamaica, together with a right of access to and from the Premises, the right in common with other tenants of the building within which the Premises are located to the use of common facilities, elevators, fire systems, air conditioning, parking lot and other common areas of such building. In the event that additional space in the building within which the Premises are located is required for use and occupation by the Authority, annex I shall be amended and the provisions of this Agreement shall apply mutatis mutandis thereto.

Article 4
Use and occupancy of the Premises

1. The Premises shall be used and occupied by the Authority as its permanent headquarters in Kingston, Jamaica.
2. The Authority shall have the right to quiet and peaceful occupancy and use of the Premises, without undue interruptions and disturbances, for the conduct of its official activities. The Government shall make every effort to ensure that the use of the immediate vicinity of the Premises does not obstruct the usefulness of the Premises to the Authority.
3. The Authority shall take all necessary steps to ensure that the Premises are not used for purposes other than those for which it is intended and to ensure that the land and buildings in its vicinity are not unreasonably obstructed.

Article 5
Operating costs of the Premises

1. During the term herein granted, the Authority shall contribute a proportionate amount, commensurate with the area occupied by the Authority, of the costs incurred by the Government in respect of the maintenance and normal wear and tear of the building within which the Premises are located, as shown in annex II hereto (hereinafter called “the Monthly Maintenance Contribution”).
2. The Monthly Maintenance Contribution shall be payable at the end of each month and shall constitute the sole contribution by the Authority towards the costs of its use and occupation of the Premises. The Authority shall be directly responsible for the payment of electricity consumption in the Premises occupied by the Authority.
3. The Monthly Maintenance Contribution shall be reviewed three years from the effective date of this Agreement and every two years thereafter. In the light of the review, the Government and the Authority may make such adjustments to annex II as may be necessary by mutual agreement. If there are special circumstances which make a review necessary before the expiration of two years from the date of the last review, either Party may request a review of the Monthly Maintenance Contribution at any time in accordance with the provisions of article 17.

Article 6
Alterations, fixtures, installations and maintenance of the Premises

1. The Government shall, at its expense, maintain the Premises, the lands and building within which the Premises are located, in good condition of repair and maintenance, and shall keep and maintain the exterior of said lands and buildings and the common areas, including elevators, fire protection systems and air conditioning, in good, attractive and operating condition.
2. The Government shall, at its expense, provide the Premises with water, electricity and any other services and facilities required by the Authority to carry out its functions. The elevator, air conditioning and cleaning services shall be provided as indicated in annex II.
3. The Government shall be responsible, at its own expense, for restoration, renovation and major repairs or extensive maintenance to the Premises including structural repairs and replacements to the buildings, installations, fixtures and equipment, such as building control equipment, air-conditioning equipment, pipes, plumbing and electrical wiring.
4. The Government shall, if so requested by the Secretary-General, facilitate the installation of equipment referred to in article 10, paragraph 6, of the Headquarters Agreement in order for the Authority to operate its own telecommunications system.
5. The Authority will report any necessary repairs that are the responsibility of the Government to the competent authority, who shall, on behalf of the Government, take prompt and effective action in response.

6. The Authority may, upon notice to the competent authorities, at its own expense, attach fixtures and make alterations and installations on the Premises for its own purposes. In any case involving structural alterations the Authority shall do so with the consent of the competent authorities and taking into consideration the building regulations of the host country.

7. The equipment, fixtures or installations erected or installed by the Authority, except for immovable fixtures or installations, shall not become part of the realty and may be removed by the Authority at any time or upon expiration of this Agreement or any renewal thereof, except for those improvements which the Authority shall, upon request by the Government giving thirty days' notice to the Authority, agree to sell to the Government; in which case the Government shall reimburse the Authority the cost thereof at the prevailing book value. Provided that upon removal of the equipment, fixtures or installations erected by the Authority, the Authority shall, if requested by the Government, restore the Premises to the same condition as that existing at the time of taking possession of the same, reasonable and ordinary wear and tear and damage by the elements or by circumstances over which the Authority has no control excepted.

Article 7

Damage to or destruction of the Premises

1. The Authority shall not be responsible for restoration or reconstruction of the Premises in case of damage or destruction by fire or any other external cause, including force majeure.

2. In the event of total destruction of the Premises or the building of which the Premises form a part due to fire, force majeure or any other cause, this Agreement, including the payment obligations assumed by the Authority hereunder, shall immediately terminate. In such event, the Government shall provide the Authority with other suitable premises.

3. In the event of partial destruction of the Premises or the building of which the Premises form a part, the Authority shall have the option to continue with the Agreement if the Government within 60 days of such occurrence satisfies the Authority that adequate measures have been taken or are proposed to restore the Premises within a reasonable time. Should the Authority elect to remain on Premises rendered partially untenable, it shall have the right to a proportionate rebate or reduction of the payments made or due to the Government pursuant to this Agreement.

Article 8

Access to Premises

Without prejudice to article 5 of the Headquarters Agreement, the Authority shall, upon request, enable duly authorized representatives of the competent authorities of the Government to enter the Premises to inspect the buildings, facilities and installations at the Premises under conditions which shall not unreasonably disturb the carrying out of the functions of the Authority, with due notice given and subject to prior approval of the Secretary-General.

Article 9

Use of the Centre

1. The Government hereby agrees to make available to the Authority whenever necessary and upon request in writing at least 30 days in advance, the Jamaica Conference Centre (hereafter called "the Centre"), for the purpose of holding meetings, conferences, consultations, scheduled programmes and any other activities related to the functions of the Authority.

2. Rates applied to the Authority for its use of the Centre shall not be less favourable than those applicable to the Government, its agencies or any other local organizations or bodies.

Article 10
Facilities, services and maintenance in the Centre

1. For purpose of giving effect to the provisions of paragraph 1 of article 9 hereof, the Government shall during the user period provide to the Authority the following facilities:
 - (a) Full and exclusive use of the conference rooms, dining facilities and other amenities;
 - (b) Post office, telephone and fax facilities;
 - (c) Parking facilities.
2. During the user period, the Government shall maintain the facilities described in paragraph 1 in good order and condition and the Government shall provide:
 - (a) Maintenance services, including ventilation and air conditioning, in respect of the Centre;
 - (b) All utilities and other services including water, electricity, air conditioning and cooking gas;
 - (c) Maintenance of the fire equipment and fire detection system;
 - (d) Maintenance and repair of kitchen equipment;
 - (e) Maintenance and repair of the electronic equipment;
 - (f) Maintenance and repair of air-conditioning equipment;
 - (g) Janitorial services;
 - (h) Security services;
 - (i) Parking facilities;
 - (j) Insurance coverage as provided in article 11.

Article 11
Insurance

1. During the term of this Agreement or any extension thereof, the Government shall in respect of the Premises and, during the user period, the Centre, procure and maintain at its expense fire insurance with extended coverage endorsement; provided, however, that the Government shall not be obligated to insure the fixtures, furnishings and other equipment owned and installed in the Premises by the Authority.
2. The Government shall carry adequate public liability insurance covering its ownership of the Centre and the Premises, and shall carry adequate public liability insurance covering the lands and buildings, parking lot, sidewalk and other common areas.
3. The Government shall provide the Authority with proof that the insurance coverage provided for in this article has been obtained.
4. In case of loss or damage or destruction of the Premises or the Centre by fire or any other cause whatsoever, the Government or its insurer, agents or assignees shall not look to the Authority or its agents or employees for reimbursement who shall not have any liability or financial responsibility in this regard, except where attributable to gross negligence or wilful default of the Authority.
5. During the term of this Agreement or any extension thereof, the Authority shall carry adequate insurance to cover its liability as provided in article 44 of the Headquarters Agreement.

Article 12
Interruption or curtailment of services

1. In the event of interruption or curtailment, whether due to strikes, mechanical difficulties or other causes, of any services maintained or required to be maintained in the Premises or the Centre, the Government undertakes to take such measures as may be necessary to restore the services without undue delay. The Authority shall have a right to a proportionate abatement or reduction of the use and occupancy costs herein provided during the period of such interruptions or curtailment.
2. The Authority shall notify the Government of any such interruption or curtailment and the Parties shall consult with a view to determining the extent of the interruption or curtailment and the steps required to restore the services.

Article 13
Privileges and immunities

Nothing contained in this Agreement shall be construed as a derogation from or a waiver, express or implied, of any of the privileges and immunities of the Authority. Furthermore, this Agreement shall be subject to and shall be construed and applied in a manner consistent with the Headquarters Agreement.

Article 14
Responsibility for the obligations on the competent authority

1. Whenever this Agreement imposes obligations on the competent authorities, the responsibility for the fulfilment of such obligations shall lie with the Government.
2. Communications concerning the Premises and use of the Centre will be between the Authority and the Government. Communications may be addressed to the Ministry of Foreign Affairs and Foreign Trade, including requests regarding services or equipment, repairs and maintenance. Such communications and requests shall be deemed to have been communicated to the Government.

Article 15
Consultations

At the request of either the Government or the Authority, consultations may be held on any matter related to the use and management of the Premises or the Centre that may affect the interest of the Authority, with a view to reaching a mutually satisfactory agreement.

Article 16
Settlement of disputes

Any dispute between the Government and the Authority concerning the interpretation or application of this Agreement shall be settled in accordance with article 48, paragraph 2, of the Headquarters Agreement.

Article 17
Revision and amendment

This Agreement, including the annexes, may be revised or amended at any time upon the request of either of the Parties, subject to mutual consultation and mutual consent to any such revisions or amendments.

Article 18
Termination

1. This Agreement may be terminated by mutual consent by either party giving 90 days' advance notice of its intention to terminate to the other. Such consent shall not be unreasonably withheld. In such a case, either party may request consultations.
2. Upon termination of this Agreement, the Authority shall surrender the Premises to the Government in good condition and repair, ordinary wear and tear, the elements, force majeure and loss through fire and other insurable risks excepted.

Article 19
Entry into force

1. This Agreement shall enter into force on its approval by the Assembly of the Authority and the Government of Jamaica.
2. This Agreement shall be applied provisionally by the Authority and the Government upon signature by the Secretary-General of the Authority and on behalf of the Government of Jamaica.

IN WITNESS WHEREOF the undersigned, being duly authorized representatives of the International Seabed Authority and the Government of Jamaica, have signed the present Agreement.

SIGNED this seventeenth day of December 2003 (two thousand and three) at Kingston, Jamaica, in two originals in the English language.

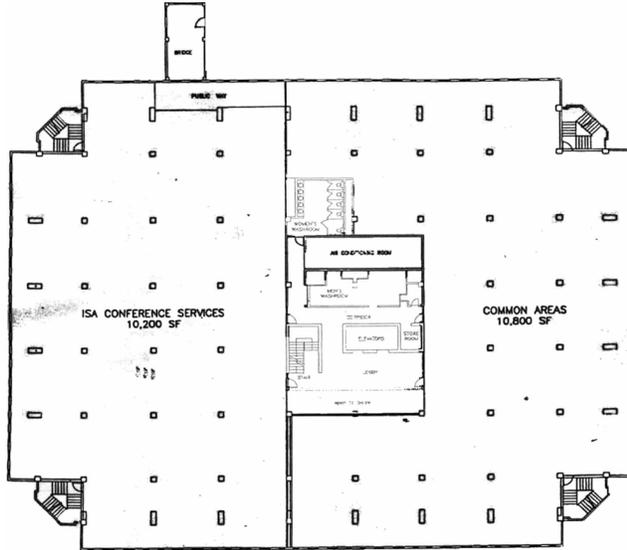
FOR THE INTERNATIONAL
SEABED AUTHORITY:

[*Signature*] **Satya Nandan**
Secretary-General

FOR THE GOVERNMENT
OF JAMAICA:

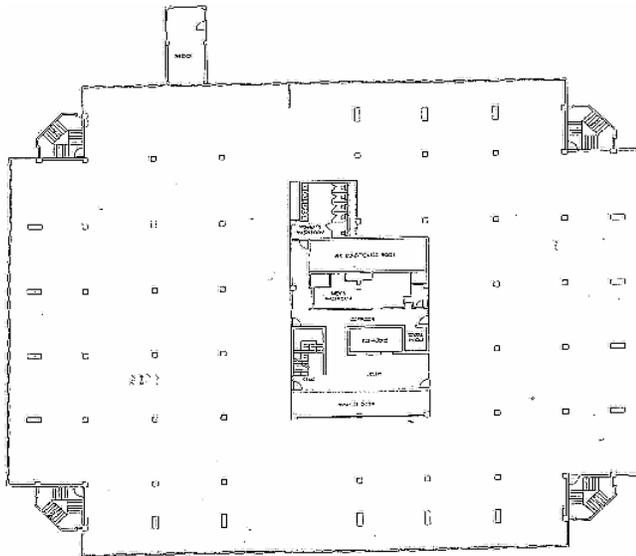
[*Signature*] **Rt. Hon. K. D. Knight**
Minister of Foreign Affairs and
Foreign Trade

Annex I to the Supplementary Agreement



FIRST FLOOR PLAN

**INTERNATIONAL SEABED AUTHORITY
BLOCK 11 BUILDING
14 - 20 PORT ROYAL STREET
KINGSTON**



SECOND FLOOR PLAN

**INTERNATIONAL SEABED AUTHORITY
BLOCK 11 BUILDING
14 - 20 PORT ROYAL STREET
KINGSTON**

Annex II to the Supplementary Agreement

1. The Monthly Maintenance Contribution shall be fixed at US\$ 4,000 and shall be in respect of the following:

- (a) Utility costs, including water and sewage;
- (b) Building management and maintenance service, including general cleaning, pest control, garbage disposal, labour, materials and supplies;
- (c) Maintenance and repair of the fire equipment and fire detection system;
- (d) Maintenance and repair of elevators;
- (e) Maintenance and repair of generator;
- (f) Maintenance and repair of air-conditioning system;
- (g) Normal wear and tear of the premises.

2. In addition, the Authority shall pay, on a monthly basis, the actual costs of electricity usage for the common facilities and common areas of the building within which the Premises are located, apportioned according to the actual areas occupied by the Authority and described in annex I. As at the date of signature of this Agreement, it is agreed that the apportionment to the Authority shall be 31.5 per cent.

**ISBA/10/A/3 Report of the Secretary-General of the International
Seabed Authority under article 166, paragraph 4, of the United
Nations Convention on the Law of the Sea**

Date: 31 March 2004

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I. INTRODUCTION

1. The present report of the Secretary-General of the International Seabed Authority is submitted to the Assembly of the Authority under article 166, paragraph 4, of the 1982 United Nations Convention on the Law of the Sea (“the Convention”). While providing the usual account of the work of the Authority over the past 12 months, the report also provides a more detailed overview of the achievements and milestones in the life of the Authority since its establishment.

2. The International Seabed Authority formally came into existence upon the entry into force of the Convention on 16 November 1994, but its establishment was the outcome of protracted and difficult negotiations dating back to the late 1960s. Dissatisfaction with the deep seabed mining regime contained in Part XI of the Convention¹ was the primary reason expressed for the rejection of the Convention by the United States of America and other key industrialized States in 1982. It was not until 1994, with the adoption by the General Assembly of the United Nations on 28 July 1994 of the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (“the Agreement”),² that it was possible to resolve the outstanding differences with respect to Part XI by the introduction of significant ameliorations to the regime contained in Part XI. The adoption of the Agreement followed extensive consultations initiated in 1990 under the auspices of the Secretary-General of the United Nations, Javier Pérez de Cuéllar, and continued by his successor, Boutros Boutros-Ghali, after it had become apparent that in

the light of the significant ideological, political and economic changes that had occurred around the world since the adoption of the Convention, it was timely to re-examine the controversial provisions on seabed mining.

3. The Authority is to function in accordance with the regime for deep seabed mining established in Part XI of the Convention and the Agreement. However, when the Authority held its inaugural session, from 16 to 18 November 1994, at Kingston, it was by no means clear how the complex provisions of the Convention and the Agreement would be applied in practice and how the Authority would carry out its substantive functions, particularly bearing in mind the long delay in deep seabed mining and the uncertain prospects of any form of commercial mining taking place in the immediate future. The first several years of the Authority's existence were therefore devoted to taking the organizational decisions necessary for the proper functioning of the Authority as an autonomous international organization, including election of the various organs and bodies of the Authority, adoption of the rules of procedure for those organs and bodies, adoption of financial and staff regulations and rules and conclusion of a headquarters agreement. The organizational phase of the Authority's work is now complete, and the Authority has entered into a new, more substantive, phase of its existence. Over recent years the focus of its work has become increasingly technical in nature. It is therefore appropriate at this stage, 10 years after the establishment of the Authority, for the Assembly to review the progress the Authority has made to date in carrying out the functions and responsibilities described in the Convention and the Agreement and to determine the future direction of the Authority's work programme.

4. Sections III to IX of the present report deal primarily with organizational matters, including an account of the establishment of the principal organs of the Authority, while sections X and XI contain a review of the most significant substantive accomplishments of the Authority. Section XII provides details of the proposed three-year work programme of the Authority. The human and financial resources needed to accomplish the proposed work programme are reflected in the proposals for a revised Secretariat structure in section III.F and in the proposed administrative budget for 2005-2006 (ISBA/10/A/4-ISBA/10/C/6). Section XIII offers some concluding remarks.

5. It may also be noted that article 154 of the Convention requires the Assembly of the International Seabed Authority, every five years from the date of entry into force of the Convention, to undertake a general and systematic review of the manner in which the international regime of the Area established in the Convention has operated in practice. In the light of this review, the Assembly may take, or recommend that other organs take, measures that will lead to the improvement of the operation of the regime. The last such review took place in 2000, during the sixth session. At that time, the Assembly concurred with the recommendation of the Secretary-General that, in view of the very brief experience that the Authority had had in implementing the regime, it was premature to make any recommendations to the Assembly concerning measures that would lead to the improvement of the operation of the regime. A further review will be due in November 2004 (and therefore may be taken up by the Authority at its eleventh session, in 2005); the present report may therefore be considered useful background material for such a review.

II. MEMBERSHIP OF THE AUTHORITY

6. In accordance with article 156, paragraph 2, of the Convention, all States parties to the Convention are ipso facto members of the Authority. As at 29 February 2004, 144 States and the European Community were parties to the Convention and hence members of the Authority.

7. Article 4 of the Agreement provides that no State or entity may establish its consent to be bound by the Agreement unless it has previously established or establishes at the same time its consent to be bound by the Convention. Conversely, the Agreement provides that any instrument of ratification or formal confirmation of or accession to the Convention following the adoption of the Agreement shall also represent consent to be bound by the Agreement. An important feature of the Agreement was its provisional application. This was done not only to facilitate universal acceptance

of the Convention, but also to promote universal participation in the Authority by allowing for provisional membership until such time as the necessary formalities could be completed prior to ratification of or accession to the Convention. Article 7 of the Agreement provided that if, on 16 November 1994 (the date of entry into force of the Convention), the Agreement had not entered into force, it would be applied provisionally pending its entry into force, subject to certain exceptions. This was an important provision designed to avoid the possibility of a duality of regimes existing upon entry into force of the Convention.

8. In accordance with article 6, paragraph 1,³ the Agreement entered into force on 28 July 1996. On the same date, in accordance with article 7, paragraph 3, provisional application of the Agreement terminated. Nevertheless, in accordance with the provisions of section 1, paragraph 12 (a), of the annex to the Agreement, States and entities that had been applying the Agreement provisionally and for which it was not in force were able to continue to be members of the Authority on a provisional basis, pending its entry into force for such States and entities, by sending a written notification to the depositary to that effect prior to 16 November 1996 and by making an application to the Council of the Authority for an extension of membership on a provisional basis after 16 November 1996. In accordance with section 1, paragraph 12 (a), of the annex to the Agreement, the Council was able to extend such membership beyond 16 November 1996 for a further period or periods not exceeding a total of two years, provided that the Council was satisfied that the State or entity concerned had been making efforts in good faith to become a party to the Agreement and the Convention. Provisional membership, for all States, terminated on 16 November 1998.⁴

9. The annual reports of the Secretary-General have consistently noted that there remain a small group of States that have not yet become parties to the Agreement, even though they had consented to be bound by the Convention prior to the adoption of the Agreement. As at 29 February 2004, there remained 28 such States: Angola, Antigua and Barbuda, Bahrain, Bosnia and Herzegovina, Botswana, Brazil, Cape Verde, the Comoros, the Democratic Republic of the Congo, Djibouti, Dominica, Egypt, the Gambia, Ghana, Guinea-Bissau, Guyana, Iraq, Mali, the Marshall Islands, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Somalia, the Sudan, Uruguay, Viet Nam and Yemen. Although the situation has improved significantly since 1997, when there were 38 States in this position, it is to be hoped that all States parties to the Convention will be able to complete the necessary procedural steps to become parties to the Agreement as soon as possible. Since 1998, the Secretary-General has established a practice of writing to all such States, on an annual basis, urging them to consider becoming party to the Agreement.

III. ESTABLISHMENT OF THE PRINCIPAL ORGANS OF THE AUTHORITY

A. The Assembly

10. The Assembly consists of all members of the Authority and, under article 160 of the Convention, is considered to be the supreme organ of the Authority to which the other organs shall be accountable as provided for in the Convention. The first meeting of the Assembly took place on 16 November 1994 at Kingston and was chaired by the Secretary-General of the United Nations and the Prime Minister and Minister for Foreign Affairs of Jamaica. This was a largely ceremonial meeting. The second part of the first session of the Authority took place at Kingston in February 1995. On 27 February 1995, the Assembly elected by acclamation Ambassador Hasjim Djalal (Indonesia) its first President.⁵ Following the practice that had been adopted during the existence of the Preparatory Commission,⁶ four Vice-Presidents were elected, ensuring that the Bureau consisted of one member from each of the five regional groups.⁷ Ambassador Djalal continued to serve as President pro tem of the Assembly during the second session, in 1996, but since 1997, the practice of regional group rotation has become established. In no case has the election of the President been contested.

1. Rules of procedure of the Assembly

11. In accordance with its term of reference, the Preparatory Commission drew up draft rules of procedure for the consideration of the Assembly.⁸ However, in the light of the adoption of the Agreement, the United Nations Secretariat suggested a number of revisions to the draft rules of procedure in order to take account of the provisions of the Agreement.⁹ During the second part of its first session, in March 1995, the Assembly established a working group consisting of 10 members (two from each regional group) to review the draft rules of procedure: Egypt, Brazil, Germany, Indonesia, Jamaica, Poland, the Republic of Korea, the Russian Federation, Senegal and the United Kingdom of Great Britain and Northern Ireland. The United States of America was invited to participate in the work of the group as an observer. Wael Aboulmagd (Egypt) was elected Chairman of the working group. A revised draft of the rules was introduced to the Assembly at its fourteenth meeting, on 16 March 1995. Following a debate, during which a proposal for certain amendments was submitted by New Zealand, the Assembly adopted its rules of procedure at its 15th plenary meeting, on 17 March 1995.¹⁰

2. Quorum

12. Since 1996, the Assembly has met annually. The first session (1994 to 1995) was held in three parts, the second session (1996) and the third session (1997) in two parts and the fourth session (1998) in three parts. For the fifth session (1999), the Assembly held only one meeting of two weeks' duration. The sixth session (2000) was again held in two parts, each of two weeks' duration, owing to the need for the Council to consider and adopt regulations on prospecting and exploration for polymetallic sulphides. The seventh (2001), eighth (2002) and ninth (2003) sessions have each been held in one part of two weeks' duration.

13. The main difficulty the Assembly has encountered has been to secure broad participation in its work. The Convention, in article 159, paragraph 5, states that a majority of the members of the Authority constitutes a quorum. This provision is repeated in the rules of procedure of the Assembly. Since 1998, it has become apparent that there has been great difficulty in securing the required quorum of member States for meetings of the Assembly at Kingston, which adversely affects the ability of the Assembly to take decisions. These difficulties were exemplified during the third part of the fourth session, when it was necessary to hold a two-day meeting of the Assembly at New York simply for the purpose of adopting the budget of the Authority, as it had not been possible to adopt it at the second part of the session owing to the lack of a quorum at Kingston. At the eighth session (2002), during the debate on the annual report of the Secretary-General, this difficulty was brought to the attention of the Assembly. It was pointed out that between 1997 and 1999 the Assembly had in fact needed to meet on only 6 out of 30 days of scheduled meetings. Most of the business of the Authority is carried out by the Council, the Legal and Technical Commission and the Finance Committee. The decisions and recommendations of those bodies are then forwarded to the Assembly for its consideration and approval. In those circumstances, it was suggested that, bearing in mind that the internal organization of the Authority was largely complete, and that the Authority had moved to a budget structure requiring the Assembly to adopt a budget only once every two years, it might be appropriate to consider the possibility that the Assembly should meet only once every two years in the hope that this would encourage more States to attend its meetings. At that time the Assembly would adopt a budget and work programme, hold the necessary elections for seats on the Council and carry out such other business as might be required. The Council and the Legal and Technical Commission will continue to meet annually. While the Assembly acknowledged that the lack of a quorum at its meetings at Kingston was a serious matter that needed to be addressed, it was not ready at that time to move to a two-year cycle of meetings. The Secretary-General was requested, however, to organize future sessions of the Authority in the most efficient manner possible, according to the programme of work for each session and bearing in mind the need for flexibility and the existing organic links between the various organs and bodies of the Authority.¹¹

14. In accordance with that request, the schedule of meetings for the ninth session (2003) was organized in such a way that the Assembly met on only four days over a seven-day period. Similarly, the schedule for the tenth session (apart from the two-day special session on 25 and 26 May 2004) has been organized so that the Assembly will meet over a seven-day period. Despite such measures, no significant increase in attendance was noted in 2003. The required quorum for the Assembly is one half of the Authority's membership. As the number of States parties to the Convention continues to increase, so the required number for a quorum increases. Given that many States parties have little direct or even indirect interest in the exploratory phase of deep seabed mining, it is inevitable that the Assembly will continue to have difficulty in securing a quorum for taking important decisions on matters such as the budget, the scale of contributions and elections to subsidiary bodies. This situation remains a matter of grave concern to the Authority and needs to be addressed.

B. The Council

15. The Council is the executive organ of the Authority. It has the power to establish, in conformity with the Convention and the Agreement, and the general policies established by the Assembly, the specific policies to be followed by the Authority on any question or matter within the competence of the Authority. In addition, the Council has a number of specific powers and functions, which are listed in article 162, paragraph 2, of the Convention.

16. In accordance with paragraph 15 of section 3 of the annex to the Agreement, the Council shall consist of 36 members of the Authority, elected by the Assembly in the following order:

“(a) Four members from among those States Parties which, during the last five years for which statistics are available, have either consumed more than 2 per cent in value terms of total world consumption or have had net imports of more than 2 per cent in value terms of total world imports of the commodities produced from the categories of minerals to be derived from the Area, provided that the four members shall include one State from the Eastern European region having the largest economy in that region in terms of gross domestic product and the State, on the date of entry into force of the Convention, having the largest economy in terms of gross domestic product, if such States wish to be represented in this group;

“(b) Four members from among the eight States Parties which have made the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals;

“(c) Four members from among States Parties which, on the basis of production in areas under their jurisdiction, 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;

“(d) Six members from among developing States Parties, representing special interests. The special interests to be represented shall include those of States with large populations, States which are land-locked or geographically disadvantaged, island States, States which are major importers of the categories of minerals to be derived from the Area, States which are potential producers of such minerals and least developed States;

“(e) Eighteen members elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole, provided that each geographical region shall have at least one member elected under this subparagraph. For this purpose, the geographical regions shall be Africa, Asia, Eastern Europe, Latin America and the Caribbean and the Western Europe and Others.”

17. The procedure for nominating and electing the 36 members of the Council laid down in the Convention and the Agreement is as follows.¹² First, the Assembly is to establish lists of countries

fulfilling the criteria for membership in each of the four groups specified in paragraphs 15 (a) to (d). Second, each of the four groups nominates members to represent them on the Council. Third, the Assembly elects the members of the Council in the following order: the 4 nominated by Group A, the 4 nominated by Group B, the 4 nominated by Group C, the 6 nominated by Group D and, finally, 18 elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole.

1. Election of the first Council

18. Following the adoption of its rules of procedure, one of the first tasks of the Assembly was to elect the first Council of the Authority. This became a lengthy and complex process, and the application of the provisions of the Convention and the Agreement gave rise to a number of practical difficulties. These included the question of how to determine which States fulfilled the criteria for membership in Groups A to D, the procedure for nomination by each Group of the required number of candidates, the application of the principle of rotation within each Group, the selection of the members of each Group to be elected for a two-year term and the application of the principle of ensuring an equitable geographical distribution of seats in the Council as a whole. In view of the complexity of determining the criteria for membership in each of the various groups, the Secretariat, at the request of a number of delegations, had prepared an informal indicative list of States that would fulfil the criteria for membership in each group.¹³ It was agreed that that paper should be regarded as an indicative guide only, not as establishing definitive criteria, and would be without prejudice to the right of States to submit or use other criteria. Following seven weeks of informal consultations at meetings of the Authority, as well as intersessional consultations in New York,¹⁴ the first Council of the Authority was elected on 21 March 1996.¹⁵ Agreement on the composition of the first Council was subject to a complex system of rotation and seat-sharing and was also based on a number of understandings within the regional groups and interest groups. These understandings are recorded in the statement of the President of the Assembly on the work of the Assembly during the first part of the second session and its accompanying annexes.¹⁶

19. The Council met for the first time during the second part of the second session of the Authority in August 1996. The President pro tem of the Assembly, Ambassador Djalal (Indonesia), acted as President pro tem of the Council until the election of the first President of the Council. On 15 August 1996, following consultations within and among the regional groups, Lennox Ballah (Trinidad and Tobago) was elected first President of the Council. As in the case of the Assembly, since 1997 the practice of regional group rotation for the presidency of the Council has become established, and in no case has the election of the President been contested.

20. During the second part of the second session the Council was also able to speedily adopt its rules of procedure following consideration of a draft of the rules by a working group chaired by Mohamed Mouldi Marsit (Tunisia).

2. Terms of office of members of the Council

21. In accordance with the Convention and the Agreement, the terms of office of one half of the members of the first Council expired after two years. Accordingly, at the first part of the fourth session, in March 1998, an election for half of the members of the Council took place. Although the agreement of March 1996 effectively determined, in most cases, which members of the Council would serve for a two-year term, further informal consultations were necessary in order to reach agreement on the composition of the Council.¹⁷ In addition, it was proposed by the Secretary-General that, in order to harmonize the terms of office of the members of the Council with the calendar year, the terms of office of the members of the Council elected in March 1998 would commence on 1 January 1999 and continue for four calendar years, until 31 December 2002. The Assembly adopted a decision to that effect on 25 March 1998.¹⁸ At the same time, the Assembly also decided that the terms of office of the members of the Council elected in 1996 for a two-year term would end on 31 December 1998.

3. *Subsequent elections*

22. Since 1998, elections for one half of the members of the Council have taken place every two years. The elections in 2000 and 2002 were not controversial. To facilitate the establishment by the Assembly of lists of States that would fulfil the criteria for membership in the various groups in the Council, the practice has developed whereby the Secretariat prepares an informal paper containing indicative lists of the States members of the Authority that would fulfil the criteria for membership in the various groups of States in the Council, measured against publicly available statistical information, such as that available to the United Nations Statistics Division, but on the understanding that, as in 1996, such lists should be regarded as an indicative guide only.

C. *The Finance Committee*

23. The Finance Committee is established by section 9 of the annex to the Agreement. Paragraph 3 of section 9 provides that:

“Members of the Finance Committee shall be elected by the Assembly and due account shall be taken of the need for equitable geographical distribution and the representation of special interests. Each group of States referred to in section 3, paragraph 15 (a), (b), (c) and (d), of this Annex shall be represented on the Committee by at least one member. Until the Authority has sufficient funds other than assessed contributions to meet its administrative expenses, the membership of the Committee shall include representatives of the five largest financial contributors to the administrative budget of the Authority. Thereafter, the election of one member from each group shall be on the basis of nomination by the members of the respective group, without prejudice to the possibility of further members being elected from each group.”

24. Although not as contentious as the election of the first Council, the question of the election of the first members of the Finance Committee occupied most of the second part of the second session of the Authority, in August 1996. At that time, the five largest contributors to the administrative budget of the Authority were France, Germany, Japan, the United Kingdom of Great Britain and Northern Ireland and the United States of America. In order to reach an accommodation on the balance of regional representation on the Finance Committee, it was necessary to come to an understanding whereby the Latin American and Caribbean Group would relinquish one of its seats on the Finance Committee after two years, in favour of the Asian Group. The Western European and Others Group would relinquish one of its seats after two and a half years, in favour of the Eastern European Group.¹⁹ It was also agreed that the five-year term of office of the members of the Finance Committee would run from 1 January 1997. The agreement on the composition of the Finance Committee was said to be “without prejudice to the overall composition of the Finance Committee for future elections and in particular to the claims of the regional groups”.²⁰

25. The five-year term of office of the members of the Finance Committee expired on 31 December 2001. An election took place at the seventh session of the Authority (2001). In contrast to the situation in 1996, the second election for members of the Finance Committee was uncontroversial. Fifteen nominations were received, and the candidates were elected by acclamation on 10 July 2001 for a five-year term commencing on 1 January 2002. Again, the election was said to be “without prejudice to the overall composition of the Finance Committee for future elections and in particular to the claims of the regional groups”.²⁰

26. Among the significant tasks carried out by the Finance Committee have been the adoption of its rules of procedure and the preparation of draft Financial Regulations for the Authority. Although the Preparatory Commission had drawn up draft rules of procedure for a finance committee,²¹ these predated the 1994 Agreement and therefore needed substantial revision. Following the election of the first Finance Committee in 1996, a revised draft was prepared by the Secretariat;²² it was considered and progressively revised²² by the Finance Committee at its meetings

during the third, fourth and fifth sessions of the Authority and the rules of procedure were finally adopted by the Committee on 20 August 1999.

27. Pending the adoption of its own Financial Regulations consistent with the Financial Regulations of the United Nations, the Authority applied, *mutatis mutandis*, the Financial Regulations of the United Nations. Draft financial regulations were considered and revised by the Finance Committee during the resumed third session of the Authority, in August 1997 and again during the first part of the fourth session, in March 1998. The Finance Committee completed its work on the draft Financial Regulations of the Authority at the resumed fourth session of the Authority, in August 1998. The draft proposed by the Finance Committee²³ was taken up by the Council on 27 August 1998, but, owing to lack of time, detailed consideration was deferred to the fifth session, in 1999. Following a detailed examination of the draft, the Council decided, on 27 August 1999, to adopt and apply provisionally the draft Financial Regulations of the Authority, pending their approval by the Assembly.²⁴ The Assembly approved the Financial Regulations of the Authority at its seventy-first meeting, on 23 March 2000.²⁵

28. Since its establishment, the Finance Committee has considered, and recommended to the Council and Assembly, the budget of the Authority and the scale of assessed contributions to the budget. On each occasion, the Committee has been able to carry out its work by consensus (see also section IV below). The Committee also reviewed the audit reports on the finances of the Authority and reported thereon to the Council and the Assembly, and made recommendations on the appointment of auditors.

D. The Legal and Technical Commission

29. The Legal and Technical Commission is established by article 163 of the Convention. Paragraph 2 of that article provides that the Commission shall consist of 15 members, elected by the Council from among the candidates nominated by States parties. However, if necessary, the Council may decide to increase the size of the Commission, having due regard to economy and efficiency.²⁶ The first members of the Commission were elected by the Council in August 1996, following the election of the first President of the Council. There were 22 nominations. In the light of the difficulties that had been encountered in electing the Council and the Finance Committee, the President of the Council decided to take advantage of the provisions of article 163, paragraph 2, of the Convention, to increase the number of seats on the Legal and Technical Commission from 15 to 22 and to have all 22 candidates elected by acclamation. This was done, without prejudice to future elections to the Commission.²⁷

30. A second election of members of the Legal and Technical Commission took place in July 2001. At that time, 24 candidates had been nominated. Following consultations between the regional groups and interest groups, the Council again decided, in accordance with article 163, paragraph 2, of the Convention, to increase the membership of the Legal and Technical Commission to 24 and to elect all candidates by acclamation, without prejudice to future elections and the claims of the regional groups and interest groups.²⁸ Nevertheless, several members of the Council expressed concern over the potential imbalance in regional representation in the membership of the Legal and Technical Commission. Some members considered that the requirements for equitable geographic representation and representation of special interests were not being respected. In the light of these concerns, the Council decided that, for future elections to the Legal and Technical Commission, and in order to allow members of the Council adequate time to review the candidacies, nominations and curricula vitae of candidates for election should be submitted to the Secretary-General not later than two months prior to the opening of the session at which the election was to take place. In addition, the secretariat was requested to consider whether it might be possible to provide the Council with an indication of the likely programme of work for the Commission prior to each election, so that members of the Council could make informed judgements of the type of qualifications needed for members of the Commission.

1. Rules of procedure of the Legal and Technical Commission

31. Following the election of the first Legal and Technical Commission in 1996, the Commission considered the revised draft rules of procedure prepared by the Secretariat.²⁹ It completed work on the draft during the resumed fourth session of the Authority and, on 26 August 1998, adopted an informal revised text, which was submitted to the Council at the fifth session of the Authority for approval, in accordance with article 163, paragraph 10, of the Convention. The Council considered the draft rules of procedure proposed by the Commission in 1999. Following detailed examination of the draft, the secretariat prepared a revised text for further consideration by the Council.³⁰ At its 58th meeting, on 26 August 1999, the Council approved the rules of procedure, with the exception of rule 6 (meetings) and rule 53 (participation by members of the Authority and entities carrying out activities in the Area). These particular rules had caused some controversy because of the insistence of some States that the meetings of the Commission on certain matters should be open to all members of the Authority. At the third session of the Authority, in 1997, after the Commission met for the first time and commenced work on the draft regulations for prospecting and exploration for polymetallic sulphides in the Area, the representative of Brazil, on behalf of the Group of 77, requested the Council to open the meetings of the Commission to participation by observers. The Commission itself had considered whether its meetings should be held in public or in private, but had decided that observers should not be permitted to attend. It was feared by the members of the Commission that the attendance of observers would unnecessarily politicize what were essentially expert discussions. It was also pointed out that many of the matters that would be considered by the Commission, particularly those relating to commercially sensitive data provided by contractors, were of a confidential nature and that members of the Commission were bound by obligations of confidentiality pursuant to the Convention. As a compromise, an understanding was reached between the Council and the Commission that a limited number of observers could be present at meetings of the Commission relating to discussions on the draft regulations, but that such observers would not participate in the discussions.

32. The compromise reached was reflected in a revision of rule 6 and rule 53 considered by the Council at the sixth session, in 2000. Essentially, the modified version of rule 6 requires the Commission to take into account the desirability of holding open meetings when issues of general interest to members of the Authority, which do not involve the discussion of confidential information, are being discussed. Rule 53, inter alia, enables any member of the Authority, with the permission of the Commission, to send a representative to attend a meeting of the Commission when a matter particularly affecting that member is under consideration. The rules of procedure of the Commission were approved by the Council at its 68th meeting, on 13 July 2000.³¹ Since the adoption of the rules of procedure, and in accordance with rule 6, the Commission has followed the practice of holding discussions on matters of general concern, such as the formulation of regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich crusts, in open session, in order to allow members of the Council to follow the debate in the Commission.³² A practice has also developed whereby the Chairman of the Commission provides a written report on the work of the Commission to the Council at the conclusion of each session. At the same time, the Commission has been careful to preserve the confidentiality of its discussions on other issues, such as the consideration of the annual reports submitted by contractors with the Authority.

2. Participation in meetings of the Legal and Technical Commission and the Finance Committee

33. A persistent problem that has confronted both the Legal and Technical Commission and the Finance Committee has been to secure the effective participation in their work of elected members from developing countries. Attendance at meetings of these bodies by members from developing countries has been generally poor, primarily for financial reasons. At the fifth session of the Authority, in 1999, commenting upon the report of the Chairman of the Legal and Technical Commission, the Council encouraged all members of the Commission to attend meetings of the Commission and requested the Secretary-General, when notifying members of the date of a

meeting, to write both to the members individually and to their respective Governments. It was also suggested that, in the case of members who had failed to attend consecutive meetings of the Commission, the Secretary-General should try to ascertain whether such members intended to maintain their seats on the Commission.³³

34. At the eighth session, in 2002, in response to a request by the Council,³⁴ the secretariat presented to the Council a study of possible modalities for financing participation in meetings of the Commission and the Finance Committee, based on a survey of the practice of the United Nations and various other international bodies. The matter was taken up by the Finance Committee and the Council, and it was decided to recommend to the Assembly that, as an interim measure, a voluntary trust fund be established for the purpose of defraying the cost of participation of members from developing countries. It was requested that the Finance Committee consider this matter further at its next session, including the possibility of making provision from the administrative budget.³⁵ Such a trust fund was established in 2002, but it attracted a relatively low level of contributions. As requested by the Council and Assembly, the matter was taken up again by the Finance Committee during the ninth session (2003). After noting that the response by donors had been slow, the Finance Committee recommended to the Assembly that the voluntary trust fund be continued and used to defray the costs of participation of members of the Legal and Technical Commission and Finance Committee from developing countries. In its recommendation, which was subsequently adopted by the Assembly, the Finance Committee also established provisional terms and conditions for access to the fund and further recommended that, for the first year of operation of the voluntary trust fund, the Secretary-General be authorized to advance, to the extent necessary, up to \$75,000 from such extraordinary sources of funding as might be under the custody of the Secretary-General and accrued to the Authority, on the understanding that that authorization was made on an exceptional, one-time basis and was without prejudice to any future recourse to the general administrative fund that might arise from the determination of definitive sources of financing for the fund.³⁶

35. In accordance with the recommendation of the Finance Committee, the Secretary-General is to report annually to the Finance Committee on the use and status of the fund. It was also agreed that, at its tenth session, the Authority should decide on a definitive source of financing for supplementing the voluntary funds for the participation of members of the Legal and Technical Commission and Finance Committee from developing countries on the basis of a recommendation of the Finance Committee and the Council.

E. The Secretary-General

36. Under article 166, paragraph 2, of the Convention, “the Secretary-General shall be elected for four years by the Assembly from among the candidates proposed by the Council and may be re-elected”. For the election of the first Secretary-General, in 1996, there were four candidates: Satya N. Nandan (Fiji), Luis Preval Páez (Cuba), Kenneth Rattray (Jamaica) and Joseph Warioba (United Republic of Tanzania). Two of the candidates subsequently withdrew, and on 21 March 1996 the Assembly proceeded to a secret indicative vote on the remaining two candidacies, those of Mr. Nandan and Mr. Warioba. Following the secret indicative vote, Mr. Warioba withdrew and the Assembly by acclamation elected Satya N. Nandan Secretary-General for a four-year term.

37. That four-year term expired in 2000. During the sixth session of the Authority, on 31 March 2000, the President of the Council informed the Assembly that the Council had decided to propose to the Assembly that Satya N. Nandan, the sole candidate, be re-elected to the position of Secretary-General. The Assembly re-elected Mr. Nandan by acclamation.³⁷

38. Mr. Nandan’s second four-year term will expire in 2004. An election for a Secretary-General will therefore take place during the tenth session of the Authority, in 2004.

F. The Secretariat

39. The secretariat for the Preparatory Commission was provided by the United Nations. In preparation for the establishment of the Authority, a small core staff had been stationed at Kingston since 1984 as the Kingston Office for the Law of the Sea. That office was abolished with effect from 30 September 1995, but it had been agreed that the Authority would continue to use the facilities and staff of the Kingston Office as the interim secretariat of the Authority until such time as the Secretary-General entered on duty and was able to assume administrative responsibility for the staff.

40. Immediately upon assuming his duties, the Secretary-General of the Authority began to make the necessary arrangements for an orderly transition of staff from the former Kingston Office for the Law of the Sea to the Authority and to assemble a core team of staff members. Although a number of administrative and technical matters remained to be dealt with, the transition from the Kingston Office was effectively completed by the end of May 1996, and, by agreement with the Legal Counsel of the United Nations, whose Office had also been responsible for the operations of the Kingston Office for the Law of the Sea, the Secretary-General assumed full administrative responsibility for the Authority with effect from 1 June 1996.

1. Recruitment of core staff

41. Following the transfer of administrative responsibility, the Secretary-General established a small core Secretariat that assisted him in reviewing the future staffing requirements for the secretariat and in preparing for the meetings of the Authority in 1996. After the first administrative budget of the Authority had been approved (see section IV), the Secretary-General commenced the recruitment process for both general service and professional staff. The recruitment of General Service staff, up to the numbers provided for in the 1997 budget, was completed by April 1997. The recruitment of Professional staff also commenced and, in accordance with established practice, was opened to international competition in March 1997.

2. Structure and organization of the secretariat

42. In the study presented to the third United Nations Conference on the Law of the Sea (UNCLOS III) in 1981, it had been suggested that the secretariat would require an establishment of some 257 posts.³⁸ In fact, by the time the Secretary-General came to present his first budget proposals to the Authority, it was proposed that, consistent with the principle of cost-effectiveness and the evolutionary approach to the establishment of the Authority, the development of the secretariat should be phased in over a period of time, beginning at 36 posts and with the eventual staff of the secretariat numbering 44 by 1999.³⁹ In fact, no additional posts were requested in the budget proposals for 1999, and only one additional post has been requested subsequently. By 2003, therefore, the approved establishment of the secretariat remained at 37 posts.

43. The initial secretariat that was established was organized in a traditionally rigid hierarchical system, based very much upon the example of the United Nations itself. Thus, four separate divisions were created as follows:

- (a) Office of the Secretary-General;
- (b) Office of Administration and Management;
- (c) Office of Legal Affairs;
- (d) Office of Resources and Environmental Monitoring.

The core functions of these Offices were described in the annex to the report of the Secretary-General to the third session (1997).⁴⁰ Since 1997, it has become apparent that the sort of hierarchical structure that may be appropriate for a large, diverse, organization like the United Nations is not necessarily appropriate for a very small, specialist organization like the Authority.

The separation of the core functions of the secretariat into small, semi-autonomous offices has generally not proved conducive to task-based teamwork. In 2002, with a view to streamlining the organization of the secretariat, as a temporary measure, the Office of Administration and Management was absorbed into the Office of the Secretary-General. This experiment was generally successful. Nevertheless, it is apparent that there remains some opportunity for further streamlining throughout the secretariat.

44. As foreshadowed in the report of the Secretary-General to the ninth session,⁴¹ it is proposed for 2005 to move the secretariat to a flatter, less hierarchical, management structure, with clearer lines of responsibility. The objective should be to create a secretariat that is not only efficient, technically competent and appropriate for the increasingly technical and scientific needs of the Authority, but also more cost-effective and result-oriented. Now that the organizational work, in terms of setting up basic accounting, human resource management and administrative procedures, has been done, there is further scope for streamlining the administration of the secretariat. On the other hand, there is a need for a significant strengthening of its technical capabilities. These measures will be progressively implemented through 2005 and 2006 as current fixed-term contracts expire.

45. Despite the measures that have been taken to develop competitive terms and conditions of service, it has not been easy to recruit qualified and experienced staff for the secretariat. As noted in previous reports of the Secretary-General, great difficulty has been experienced in attracting candidates with appropriate qualifications and experience for posts in certain key technical areas. Apart from the lack of a defined career structure within a very small secretariat, one of the main difficulties in attracting such staff relates to the lack of possibilities for employment of spouses and partners in Jamaica. It may be noted that this issue has also been raised as a matter of general concern to the wider United Nations system by the Secretary-General of the United Nations, who in 2002 called upon host Governments to give favourable consideration to permitting spouses of staff members to seek employment. Since the ninth session (2003), the Secretary-General of the Authority has pursued this matter with the Government of Jamaica, which has indicated a willingness to cooperate with the Authority to facilitate the employment of spouses of staff members, subject to certain conditions as are normally applied to other diplomatic missions. In order to compensate for the inadequate career structure within the Authority, the Secretary-General also intends in future to explore the possibilities for seconding specialized scientific and technical staff from relevant national and international institutions for definite periods in order to carry out specific projects within the scope of the work programme of the Authority.

3. *Terms and conditions of service*

46. It was understood from the outset that, while the Authority would be an autonomous international organization, it would apply to its staff the common system of salaries, allowances and other conditions of service of the United Nations and its specialized agencies.⁴² Thus, at its 39th meeting, on 29 August 1996, the Assembly recognized that, pending the approval of its own regulations, the Authority should apply the Financial Regulations and Staff Regulations of the United Nations. At the same time, the Assembly requested the Secretary-General to take the necessary steps to apply for membership in the United Nations Joint Staff Pension Fund and to conclude with the Secretary of the United Nations Joint Staff Pension Board an agreement regarding the participation of the Authority in the Pension Fund, as required by article 3, paragraph (c), of the Regulations of the Pension Fund.⁴³

(a) United Nations Joint Staff Pension Fund

47. In accordance with the Assembly's request, the necessary steps were taken to apply for membership in the Pension Fund early in 1997. At its 180th meeting, in July 1997, the Standing Committee of the United Nations Joint Staff Pension Board, on behalf of the Board, decided to recommend to the General Assembly of the United Nations that the Authority be admitted to membership in the Fund. On 22 December 1997 the General Assembly decided to approve the

admission to membership in the Fund of the Authority as from 1 January 1998.⁴⁴ In accordance with the regulations of the Pension Fund, the Secretary-General, on 18 June 1998, executed an agreement between the Fund and the Authority governing the admission of the Authority to membership. On the same date, the Authority and the United Nations also executed a special agreement extending the jurisdiction of the Administrative Tribunal of the United Nations to the Authority with respect to applications by staff members of the Authority alleging non-observance of the regulations of the Pension Fund. This completed the administrative steps necessary to enable the Authority to become a member of the Fund.

(b) Staff Regulations and Rules

48. Draft Staff Regulations, based substantially on the Staff Regulations of the United Nations, were drawn up by the secretariat during 1997. These were subsequently revised following significant revisions to the Staff Regulations of the United Nations, approved by the General Assembly in 1998. The draft Staff Regulations of the Authority were considered by the Finance Committee during the fifth session (1999) and submitted to the Council for consideration. The Council considered the Staff Regulations of the Authority at the sixth session (2000). At its 69th meeting, on 13 July 2000, the Council decided, pursuant to article 162, paragraph 2 (o) (ii) of the Convention, to adopt and apply provisionally the Staff Regulations pending their approval by the Assembly.⁴⁵ Subsequently, at its 79th meeting, on 10 July 2001, the Assembly approved the Staff Regulations of the Authority.⁴⁶

49. In November 2001, in accordance with the Staff Regulations, the Secretary-General promulgated the Staff Rules.⁴⁷

(c) Inter-Organization Agreement

50. The Authority being a small organization with a staff that is composed largely of specialists, one of the problems that it has encountered is that it is very difficult to offer any scope for promotion or career progression. Accordingly, in 2000, and as envisaged in the Relationship Agreement between the Authority and the United Nations,⁴⁸ the Authority applied for admission to the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations Applying the United Nations Common System of Salaries and Allowances (“the Inter-Organization Agreement”). That Agreement, which is administered by the Chief Executives Board for Coordination of the United Nations, is, as its name suggests, an agreement between the United Nations, its specialized agencies and other intergovernmental organizations applying the United Nations common system of salaries and allowances and is designed to facilitate the transfer, loan or secondment of staff between organizations by setting out the respective rights and liabilities of staff members and the organizations concerned. The Authority became a party to the Inter-Organization Agreement on 26 February 2001.⁴⁹

(d) Health insurance

51. One of the important matters that needed to be addressed was the establishment of a scheme of health insurance for staff members. In the case of General Service staff, it was found that the self-insurance scheme used by the United Nations (and therefore previously applicable to General Service staff of the Kingston Office for the Law of the Sea) was not sustainable for an organization of the size of the Authority. Accordingly, with effect from 1 March 1998, the Authority arranged a new group health insurance plan on the local market for General Service staff members. This plan has been reviewed and renegotiated as necessary since 1998.

52. In the case of Professional staff members, the Authority was informed in 1996 that, because of the autonomous nature of the Authority, Professional staff members would no longer be eligible to participate in the United Nations worldwide Van Breda health insurance plan. That plan provides international health insurance cover to all United Nations and United Nations Development Programme (UNDP) field staff posted away from New York.⁵⁰ The Authority therefore had to

negotiate its own health insurance plan for Professional staff. After making comparisons between a number of providers, the Authority elected to enter into a group insurance contract with Van Breda, which became effective on 1 October 1997.⁵¹ Unfortunately, because of the small numbers of staff involved, it was not possible for the Authority to obtain terms comparable to those enjoyed by staff members of the United Nations and UNDP. In particular, staff of the Authority were not entitled to after-service health insurance, and the level of premiums (and, consequently, the level of insurance subsidy payable by the Authority) was significantly higher than would have been the case under the United Nations Van Breda plan. Following a review of the level of coverage in 2002, as well as discussions with the Insurance Service of the United Nations and with Van Breda International, it was possible to come to an arrangement whereby the Authority terminated its contract with Van Breda in September 2003 and the Professional staff of the Authority were absorbed into the United Nations Van Breda plan. As a result, Professional staff now enjoy the same level of coverage as all other United Nations and UNDP field staff, while the level of premiums has been reduced, thus resulting in an overall cost saving to the Authority. Since insurance matters are dealt with and processed centrally at United Nations Headquarters, the administrative burden on the Authority has also been reduced.

(e) *United Nations Administrative Tribunal*

53. The last remaining matter to be resolved in connection with the terms of service of the staff of the Authority concerned the establishment of a system of appeals against administrative decisions or disciplinary action. As foreseen in the relationship agreement between the Authority and the United Nations, regulation 11.2 of the Staff Regulations of the Authority provides that the United Nations Administrative Tribunal shall, under conditions prescribed in its statute, hear and pass judgement upon applications from staff members of the Authority alleging non-observance of their terms of appointment, including all pertinent regulations and rules. In order to give effect to this provision, however, certain procedural steps are necessary. In particular, General Assembly resolution 52/166 of 15 December 1997 and article 14, paragraph 4, of the statute of the United Nations Administrative Tribunal provide that in order to extend the competence of the Tribunal to any international organization or entity established by a treaty and participating in the common system of conditions of service, it is necessary first to conclude a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. Following discussions between the Legal Office of the Authority and the Office of Legal Affairs of the United Nations, such a special agreement was concluded through an exchange of letters between the Secretary-General of the Authority and the Secretary-General of the United Nations on 13 March 2003. The special agreement confers jurisdiction on the United Nations Administrative Tribunal in respect of any administrative decision or disciplinary action complained of after 30 June 1996, subject to the time limits specified in the statute of the Tribunal and other provisions as to receivability.

IV. BUDGET AND FINANCE

A. Budget

54. In accordance with section 1, paragraph 14, of the annex to the Agreement, until the end of the year following the year during which the Agreement entered into force, that is, until 31 December 1997, the administrative expenses of the Authority were met through the budget of the United Nations. Following the election of the Secretary-General in 1996, a draft budget for 1997 was submitted to the Authority at its resumed second session, in August 1996. The draft budget was considered by the Finance Committee, which recommended certain amendments and submitted a report to the Council and the Assembly.⁵² Subsequently, on the basis of the recommendations of the Finance Committee and the Council, the Assembly of the Authority adopted a revised budget for 1997 in the sum of \$4,150,500 (being \$2,750,500 in respect of administrative costs and \$1,400,000

in respect of meeting services). The revised budget was subsequently approved by the General Assembly of the United Nations.⁵³

55. Since 1998 the Authority's budgets have followed a conservative pattern. The approved budget for 1998 was \$4,697,100 (including \$1,375,800 for meeting services).⁵⁴ The budget for 1999 increased to \$5,011,700 (including \$1,200,300 for meeting services),⁵⁵ with a further increase in 2000 to \$5,275,200.⁵⁶ At the sixth session (2000), the Assembly decided to move to a two-year budget cycle. The approved budget for the financial period 2001-2002 was \$10,506,400,⁵⁷ while for the financial period 2003-2004, with a budget of \$10,509,700, there was a minimal change in nominal terms and a reduction in real terms in comparison with the previous financial period. The range of the aggregate budget amounts over the period 1999 to 2003 has been relatively small. The 2003 budget was only 4 per cent larger than the 1999 budget, which indicates an average annual increase over five years of less than 1 per cent per annum. In terms of composition, the budget components have conformed to a pattern of approximately 75 per cent allocated for conference servicing and staffing costs, with approximately 25 per cent allocated for the remaining administrative and deep seabed programme-related activities.

B. Contributions to the budget

56. In accordance with the Convention and the Agreement, the administrative expenses of the Authority will be met by assessed contributions of its members until the Authority has sufficient funds from other sources to meet those expenses. The scale of assessments will be based upon the scale used for the regular budget of the United Nations, adjusted for differences in membership. In practice, the Authority has based its scale of assessments on that adopted by the General Assembly for the United Nations for the previous year.

57. As at 31 January 2004, the Authority had received over 99 per cent of assessed contributions in respect of the years 1998 to 2001 and 97 per cent in respect of 2002, but only 87 per cent in respect of 2003. This resulted in the Authority's reporting, for the first time, a small excess of expenditure over income for 2003. It is hoped that the delayed 2003 contributions will be received early in 2004 in order that the final budget out-turn for the financial period 2003-2004 is not unduly affected.

58. The negative trend in relation to the payment of contributions is emphasized when expressed in terms of the number of members of the Authority that are in arrears. In 1998, 83 per cent of members had paid their contributions in full. This proportion has steadily declined to the extent that, as at 31 January 2004, only 46 per cent of members had paid their 2003 contributions. In accordance with article 184 of the Convention and rule 80 of the rules of procedure of the Assembly, a member of the Authority that is in arrears in the payment of its financial contribution to the Authority will have no vote if the amount of its arrears equals or exceeds the amount of financial contribution due from it for the preceding two years. As at 31 March 2004, 52 members of the Authority were in arrears for a period of two years or more: Antigua and Barbuda, Argentina, Bahrain, Benin, Bolivia, Cape Verde, the Comoros, the Cook Islands, Côte d'Ivoire, the Democratic Republic of the Congo, Dominica, Egypt, Equatorial Guinea, Gabon, the Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Iraq, Lebanon, Luxembourg, Madagascar, Maldives, Mali, Mauritania, Mongolia, Myanmar, Nauru, Nicaragua, Panama, Papua New Guinea, Paraguay, the Philippines, Saint Kitts and Nevis, Sao Tome and Principe, Seychelles, Solomon Islands, Somalia, the Sudan, Suriname, Togo, Uganda, Uruguay, Vanuatu, Yemen, Serbia and Montenegro (formerly Yugoslavia), Zambia and Zimbabwe.

V. RELATIONS WITH THE HOST COUNTRY

59. Article 156, paragraph 4, of the Convention provides that the seat of the Authority will be in Jamaica. As noted in paragraph 40 above, when the secretariat of the Authority became

operational in 1996, it took over the premises formerly occupied by the Kingston Office for the Law of the Sea, established by the United Nations to service the Preparatory Commission. For that purpose, there had been in effect an agreement between the Government of Jamaica and the United Nations relating to the use of the premises.

A. Headquarters Agreement

60. At its eighth meeting, on 11 November 1996, the Council formally requested the Secretary-General to negotiate with the Government of Jamaica an agreement regarding the headquarters of the Authority, taking into account the draft of such an agreement prepared by the Preparatory Commission.⁵⁸ The Council also decided that such negotiations would be under its guidance.⁵⁹ Following initial negotiations between the Secretary-General and the Government of Jamaica, a draft headquarters agreement was submitted for the consideration of the Council at the third session (1997).⁶⁰ In the light of concerns expressed by some delegations, it was not possible to resolve all outstanding issues, particularly with respect to article 2 of the draft agreement, which dealt with the precise location of the headquarters of the Authority within Jamaica, and the matter was deferred to the fourth session (1998). At the fourth session, the matter was further deferred to the fifth session, at which time the Secretary-General presented to the Assembly a report on considerations relating to an offer by the Government of Jamaica to locate the permanent headquarters of the Authority to the same premises in downtown Kingston as had previously been occupied by the Kingston Office for the Law of the Sea, at Block 11, 14-20 Port Royal Street.⁶¹ That report was considered further by the Finance Committee, which recommended that the Assembly approve the recommendations of the Secretary-General contained in his report.⁶² Having considered the recommendations of the Finance Committee, the Council decided, on 24 August 1999, to recommend to the Assembly that it approve the Headquarters Agreement contained in document ISBA/3/A/L.3-ISBA/3/C/L.3 and Corr.1.

61. The Headquarters Agreement between the International Seabed Authority and the Government of Jamaica was approved by the Assembly at its 67th meeting, on 25 August 1999. At that time, the Assembly also accepted the offer of the Government of Jamaica for the use of the Authority's existing premises as the permanent headquarters of the Authority and requested the Secretary-General to negotiate with the Government of Jamaica, pursuant to article 2 of the Headquarters Agreement, a supplementary agreement concerning the use and occupation of the permanent headquarters in order to secure the best terms for the maintenance of the Authority's premises.⁶³ At the 68th meeting of the Assembly, on 26 August 1999, in a formal ceremony, the Headquarters Agreement was signed by the Secretary-General, on behalf of the Authority, and by the Deputy Prime Minister and Minister for Foreign Affairs of Jamaica, Seymour Mullings, on behalf of the Government of Jamaica.

B. Supplementary Agreement

62. Following the signature of the Headquarters Agreement, in October 1999 the Secretary-General invited the Government of Jamaica to commence as soon as possible the negotiations on the supplementary agreement. However, owing to the need to carry out an internal transfer of the title to the proposed headquarters building, it was not until May 2000 that a preliminary round of discussions could take place between the Authority and the Government. Regrettably, it was not possible to reach an early agreement on the parameters of the proposed supplementary agreement, and a number of problems emerged that made progress difficult to achieve. Background information on the issues and a complete synopsis of the negotiations may be found in a note by the Secretary-General prepared for the tenth session and in the successive annual reports of the Secretary-General.⁶⁴

63. At the ninth session (2003), the Assembly once again expressed its concern about the long delay in completing the supplementary agreement and urged the Secretary-General and the

Government of Jamaica to continue their efforts to conclude an agreement as soon as possible.⁶⁵ In accordance with the injunction of the Assembly, in September 2003 the Secretary-General and the Government of Jamaica renewed their efforts to reach agreement on the technical aspects of the supplementary agreement. Following detailed and intensive negotiations, it was possible to reach agreement on the terms of the agreement by November 2003. Subsequently, at a ceremony at the Authority's headquarters at Kingston on 17 December 2003, the Agreement was signed by the Secretary-General, on behalf of the Authority, and by K. D. Knight, Minister for Foreign Affairs and Foreign Trade, on behalf of the Government of Jamaica. In accordance with its article 19, the Supplementary Agreement will be applied provisionally upon signature and will enter into force on its approval by the Assembly of the Authority and by the Government of Jamaica. The Assembly will be invited to approve the Supplementary Agreement during the tenth session.

64. The key elements of the Supplementary Agreement are described in document ISBA/10/A/2-ISBA/10/C/2. The financial implications of the Supplementary Agreement will be considered by the Finance Committee in the context of the proposed budget of the Authority for the financial period 2005-2006. Overall, however, it is expected that there will be no additional cost to the Authority as a result of the Agreement.

VI. PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL SEABED AUTHORITY

65. Section 4, subsection G, of the Convention (articles 176-183) deals with the legal status, privileges and immunities of the Authority and of certain persons connected with the Authority. This section of the Convention was modelled on other instruments, including articles 104 and 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947. Using these provisions as a starting point, the Preparatory Commission elaborated a complex and comprehensive final draft Protocol on the Privileges and Immunities of the International Seabed Authority.⁶⁶ At its first session (1995), the Assembly set up an ad hoc working group, chaired by Mohamed Mouldi Marsit (Tunisia), to review that final draft. The working group reconvened during the resumed second session (1996) under the chairmanship of Zdislaw Galicki (Poland). It continued to meet during the third session (1997) under the same chairmanship and with the benefit of a revised and much-simplified text prepared by the secretariat of the Authority.⁶⁷ Discussions in the working group centred on the fact that some members of the Authority preferred a detailed protocol similar to that proposed by the Preparatory Commission, while others argued for a short document containing only those essential matters not covered in the Convention. Some States preferred to dispense with a protocol altogether, simply relying upon the provisions of the Convention as the sole basis for the privileges and immunities of the Authority.

66. At the end of the resumed third session (1997), the working group had produced a revised draft of the Protocol in the form of an informal working paper. The final draft Protocol prepared by the working group was a much-shortened version of the draft proposed by the Preparatory Commission. The draft was considered by the Assembly at the fourth session (1998) and was approved by consensus at the 54th meeting of the Assembly, on 26 March 1998. In order to facilitate signature by member States, the Protocol was opened for signature at the headquarters of the Authority at a formal ceremony on 26 and 27 August 1998 and subsequently until 16 August 2000 at United Nations Headquarters in New York. The following members of the Authority signed the Protocol at Kingston: the Bahamas, Brazil, Indonesia, Jamaica, Kenya, the Netherlands and Trinidad and Tobago. The following members signed during the time the Protocol was open for signature at United Nations Headquarters: Chile, Côte d'Ivoire, the Czech Republic, Egypt, Finland, Ghana, Greece, Italy, Malta, Namibia, Oman, Pakistan, Portugal, Saudi Arabia, Senegal, Slovakia, Spain, the Sudan, the former Yugoslav Republic of Macedonia, the United Kingdom of Great Britain and Northern Ireland and Uruguay.

67. On 1 May 2003, Nigeria became the tenth member of the Authority to ratify or accede to the Protocol. In accordance with its article 18, paragraph 1, the Protocol therefore entered into force on 31 May 2003. As at February 2004, the parties to the Protocol were Cameroon, Croatia, the Czech Republic, Egypt, Jamaica, the Netherlands, Nigeria, Slovakia, Spain and the United Kingdom of Great Britain and Northern Ireland.

68. The Protocol deals with the immunities and privileges of the Authority in relation to those matters not already covered in the Convention and is based substantially on articles I, II, IV, V, VI and VII of the Convention on the Privileges and Immunities of the United Nations (1946), as well as the Convention on the Privileges and Immunities of the Specialized Agencies (1947). These include immunities and privileges of representatives travelling to and from the seat of the Authority and the use of the United Nations laissez-passer by staff of the Authority. The Protocol also elaborates upon the privileges and immunities to be accorded to certain categories of persons, including officials of the Authority, experts on mission and representatives of members of the Authority. It is hoped that other members of the Authority will give consideration to early ratification of or accession to the Protocol.

VII. PERMANENT MISSIONS TO THE AUTHORITY

69. The first member State to establish a permanent mission to the Authority was Italy, on 26 June 1996. Thereafter, permanent missions were established (in order of first presentation of credentials) by Costa Rica, Argentina, Germany, Cuba, the Netherlands, the Republic of Korea, Brazil, Mexico, Chile, Haiti, Jamaica, China, Gabon, Trinidad and Tobago, France, Cameroon, South Africa, Saint Kitts and Nevis and Honduras. The permanent missions of the Netherlands and the Republic of Korea have since closed.

VIII. FLAG AND EMBLEM

70. The official seal, flag and emblem of the Authority were adopted by resolution by the Assembly at its 84th meeting, on 14 August 2002.⁶⁸

71. The emblem of the International Seabed Authority, which now appears in two principal variants on the official documents of the Authority as well as on the flag, letterhead and publications of the Authority, was created in 1997 and is a modification of the design that had been used by the United Nations for the purposes of UNCLOS III and subsequently by the Office of the Special Representative of the Secretary-General for the Law of the Sea.

72. The flag depicts the official seal of the Authority, which shows the scales of justice hanging over the waves of the oceans, all encompassed by a wreath of laurel leaves. Apart from representing justice governing the oceans, the emblem also reflects the strong links between the United Nations Division for Ocean Affairs and the Law of the Sea, the International Tribunal for the Law of the Sea and the Authority.

IX. RELATIONS WITH THE UNITED NATIONS AND OTHER BODIES

73. Article 162, paragraph 2 (f), of the Convention provides that the Council may “enter into agreements with the United Nations or other international organizations on behalf of the Authority and within its competence, subject to approval by the Assembly”. Since its establishment, the Authority has entered into a Relationship Agreement with the United Nations and has established cooperative arrangements with the International Tribunal for the Law of the Sea and the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (IOC/UNESCO).

A. Relationship Agreement with the United Nations

74. At the second session (1996), recognizing the particular status of the Authority as an autonomous international organization that is neither a specialized agency of the United Nations nor an organization having a similar status to that of a specialized agency, such as the International Atomic Energy Agency,⁶⁹ the Assembly decided that the Authority should seek to obtain observer status at the United Nations in order to enable it to participate in the deliberations of the General Assembly.⁷⁰ In addition, the Council requested the Secretary-General to negotiate with the Secretary-General of the United Nations a relationship agreement between the Authority and the United Nations.⁷¹ A parallel request was made by the General Assembly in the same year.⁷²

75. Negotiations on such an agreement took place in January 1997 and were rapidly completed. The Agreement was signed by the Secretary-General of the United Nations and the Secretary-General of the International Seabed Authority on 14 March 1997 in New York and applied provisionally upon signature pending its approval by the General Assembly of the United Nations and the Assembly of the Authority. The Relationship Agreement was approved by the Assembly of the Authority at its 45th meeting, on 27 March 1997,⁷³ on the recommendation of the Council. The Agreement was approved by the General Assembly of the United Nations on 26 November 1997 and entered into force on that date.⁷⁴

76. The Relationship Agreement establishes a mechanism for close cooperation between the secretariats of the two organizations in order to ensure effective coordination of activities and avoid unnecessary duplication of work. Such cooperative arrangements are to include cooperation regarding personnel arrangements. The Agreement also provides for reciprocal representation at meetings, taking into account the status of the Authority as an observer at the United Nations, and establishes mechanisms whereby the Authority and the United Nations will cooperate in exchanging information and in fulfilling their respective functions under the Convention. Most importantly for the Authority, article 12 of the Agreement provides that unless the General Assembly, after giving reasonable notice to the Authority, decides otherwise, the United Nations will continue to make available to the Authority, on a cost-reimbursable basis, such facilities and services as may be required for the meetings of the Authority, including translation and interpretation services, documentation, and conference services.

77. On 24 October 1996, following a request by the Assembly of the Authority, the Authority was granted observer status in the General Assembly.⁷⁵ The Authority also has observer status at the annual Meetings of States Parties convened by the Secretary-General of the United Nations pursuant to article 319, paragraph 2 (e), of the Convention and, since 1998, has been invited to make a brief report on its work to those Meetings.⁷⁶

B. Relations with other international organizations

78. Special Commission 4 of the Preparatory Commission had made a number of recommendations concerning the relationship between the Authority and the International Tribunal for the Law of the Sea.⁷⁷ However, in the debate on this topic following the presentation of the first annual report of the Secretary-General to the Assembly, a number of delegations stated that “while a good working relationship with the International Tribunal for the Law of the Sea was desirable, it should be borne in mind that the Tribunal was also the court to which the Authority was answerable with regard to any seabed mining dispute”.⁷⁸ Subsequently, the matter of a relationship agreement was taken up informally between the secretariat of the Authority and the Registry of the Tribunal. Following those consultations, it was decided in July 2003 not to enter into a formal relationship agreement, but to make provision for administrative cooperation between the two institutions through an exchange of letters between the Secretary-General of the Authority and the Registrar of the Tribunal. The agreement provides for the possibility of cooperation, subject to requirements of confidentiality, in respect of the free exchange of information, publications and reports, provision of

conference services and personnel matters. In fact, such cooperation had already been taking place — for example, in the free exchange of publications between the two institutions — and, in that regard, the exchange of letters simply endorses already-existing arrangements.

79. In May 2000, the Secretary-General of the Authority and the Executive Secretary of IOC/UNESCO signed a memorandum of understanding concerning cooperation between the two organizations in promoting the conduct of marine scientific research in the international seabed area. Under the memorandum of understanding, the two organizations will, where appropriate and practical, consult on matters of mutual interest in the field of marine scientific research and cooperate in the collection of environmental data and information.

80. Since 1996, the Assembly has granted observer status to three intergovernmental organizations — the Secretariat of the Convention on Biological Diversity, the Permanent Commission of the South Pacific and the South Pacific Applied Geoscience Commission — and four non-governmental organizations — Greenpeace International, the International Association of Drilling Contractors, the International Ocean Institute and the Law of the Sea Institute.

X. SUBSTANTIVE WORK OF THE AUTHORITY

81. The substantive functions of the Authority are derived from the provisions of the Convention and the Agreement. Indeed, the powers and functions of the Authority are limited to those expressly conferred upon it by the Convention. Under article 157, paragraph 1, of the Convention, the Authority exists primarily as the “organization through which States parties ... organize and control activities in the Area, particularly with a view to administering the resources of the Area.” The Authority also has a general responsibility to promote and encourage the conduct of marine scientific research in the international area and to disseminate the results of such research⁷⁹ and a specific duty to ensure effective protection of the marine environment from harmful effects that may arise both from exploration of the international area and, subsequently, from exploitation of its resources.⁸⁰ Marine scientific research in the Area is itself to be carried out in conformity with Part XI and for the benefit of mankind as a whole.⁸¹

82. The Agreement provides that, in order to minimize costs to States parties, all organs and subsidiary bodies to be established under the Convention and the Agreement shall be cost-effective, and that the setting up and functioning of the organs and subsidiary bodies of the Authority shall be “based on an evolutionary approach, taking into account the functional needs of the organs and subsidiary bodies concerned in order that they may discharge effectively their respective responsibilities at various stages in the development of activities in the Area”.⁸² This statement of general principle is given greater specificity in paragraph 5 of section 1 of the annex to the Agreement, which provides that, between the entry into force of the Convention and the approval of the first plan of work for exploitation, the Authority shall concentrate on:

(a) Processing of applications for approval of plans of work for exploration in accordance with Part XI and the Agreement;

(b) Implementation of decisions of the Preparatory Commission relating to the registered pioneer investors and their certifying States, including their rights and obligations, in accordance with article 308, paragraph 5, of the Convention and resolution II, paragraph 13;

(c) Monitoring of compliance with plans of work for exploration approved in the form of contracts;

(d) Monitoring and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects;

(e) Study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those minerals that are likely to be most seriously

affected, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work done in this regard by the Preparatory Commission;

(f) Adoption of rules, regulations and procedures necessary for the conduct of activities in the Area as they progress. Notwithstanding the provisions of annex III, article 17, paragraph 2 (b) and (c), of the Convention, such rules, regulations and procedures shall take into account the terms of the Agreement, the prolonged delay in commercial deep seabed mining and the likely pace of activities in the Area;

(g) Adoption of rules, regulations and procedures incorporating applicable standards for the protection and preservation of the marine environment;

(h) Promotion and encouragement of the conduct of marine scientific research with respect to activities in the Area and the collection and dissemination of the results of such research and analysis, when available, with particular emphasis on research related to the environmental impact of activities in the Area;

(i) Acquisition of scientific knowledge and monitoring of the development of marine technology relevant to activities in the Area, in particular technology relating to the protection and preservation of the marine environment;

(j) Assessment of available data relating to prospecting and exploration;

(k) Timely elaboration of rules, regulations and procedures for exploitation, including those relating to the protection and preservation of the marine environment.

83. In addition, the Authority has a number of other, specific responsibilities, such as the responsibility to distribute to States parties to the Convention payments or contributions in kind derived from exploitation of the resources of the outer continental shelf pursuant to article 82, paragraph 4, of the Convention.

84. The most significant milestones in the substantive work of the Authority to date have been the adoption of the first set of regulations on prospecting and exploration for polymetallic nodules in the Area and the approval, in accordance with the Agreement, of the plans of work for exploration of the former registered pioneer investors, followed by the issue, pursuant to the Regulations, of contracts for exploration to each of the pioneer investors.

A. Approval of plans of work for exploration

85. By the final session of the Preparatory Commission, seven pioneer investors had been registered by the General Committee under the provisions of resolution II: India, on 17 August 1987; l'Institut Français de recherche pour l'exploitation de la mer/l'Association française pour l'étude et la recherche des nodules (IFREMER/AFERNOD) (France), the Deep Ocean Resources Development Company (Japan) and Yuzhmoregeologiya (Union of Soviet Socialist Republics (now the Russian Federation)), all on 17 December 1987; the China Ocean Mineral Resources Research and Development Association (COMRA) (China), on 5 March 1991; Interoceanmetal Joint Organization (IOM) (Bulgaria, Cuba, Czechoslovakia (now the Czech Republic and Slovakia), Poland and the Union of Soviet Socialist Republics (now the Russian Federation)), on 21 August 1991; and the Republic of Korea, on 2 August 1994.

86. In accordance with paragraph 6 (a) (ii) of section 1 of the annex to the Agreement, a registered pioneer investor was entitled to request approval of a plan of work for exploration within 36 months of the entry into force of the Convention, that is, by 16 November 1997. Pursuant to this provision, all seven registered pioneer investors submitted to the Secretary-General requests for approval of their plans of work for exploration on 19 August 1997. In accordance with the provisions of the Agreement, such plans of work consisted of the documents, reports and other data submitted to the Preparatory Commission both before and after registration, as well as the

certificate of compliance issued by the Preparatory Commission in accordance with resolution II, paragraph 11 (a).⁸³

87. The requests for approval of plans of work for exploration were considered by the Legal and Technical Commission on 21 August 1997. In relation to each request, the Commission ascertained that the requirements of the Agreement had been met.⁸⁴ At its 22nd meeting, on 27 August 1997, the Council, acting on the recommendation of the Legal and Technical Commission, noted that, in accordance with paragraph 6 (a) (ii) of section 1 of the annex to the Agreement, the plans of work for exploration submitted by the seven registered pioneer investors were considered to be approved and requested the Secretary-General to take the necessary steps to issue the plans of work in the form of contracts incorporating the applicable obligations under the provisions of the Convention, the Agreement and resolution II, and in accordance with the regulations for prospecting and exploration for polymetallic nodules in the Area and a standard form of contract to be approved by the Council.⁸⁵

B. Completion of outstanding obligations pursuant to resolution II

88. When the Convention entered into force in 1994, there remained for each of the registered pioneer investors a number of outstanding obligations to be completed in accordance with resolution II. These outstanding obligations were reported in detail in a document submitted to the second session (1996) under the headings (a) periodic expenditures, (b) periodic reports, (c) provision of data, (d) relinquishment, (e) exploration plan for reserved areas in the central region of the north-east Pacific Ocean and (f) training.⁸⁶

89. Following its establishment in 1996, the Legal and Technical Commission considered the periodic reports and relinquishments submitted to the Authority by the registered pioneer investors pursuant to resolution II. By the time exploration contracts were entered into in 2001 all former registered pioneer investors had completed their schedules of relinquishment. Since the conclusion of contracts for exploration, reports have been submitted in accordance with the standard conditions of such contracts (see para. 109 below).

90. Resolution II, paragraph 12 (a) (ii), required every registered pioneer investor to provide training at all levels for personnel designated by the Preparatory Commission. By the time of entry into force of the Convention, all registered pioneer investors, with the exception of the Government of the Republic of Korea, had fulfilled their obligations with regard to training. The Republic of Korea submitted its proposal for a training programme to the Authority on 6 March 1995, after the training panel had concluded its work and presented its final report. The proposal was therefore taken up and approved by the Legal and Technical Commission at its meeting in August 1997.⁸⁷ Subsequently, the Secretary-General, by a note verbale dated 14 April 1998, requested members of the Authority to nominate candidates for training by, at the latest, 31 July 1998. A total of 60 applications were received by that date. On the basis of the nominations received, the Legal and Technical Commission, at its meetings on 24 and 25 August 1998, selected four candidates and four alternate candidates for the training programme.⁸⁸ The training programme commenced in March 1999 and continued until December 1999. Four trainees, from Cameroon, Kenya, Malaysia and the Philippines, completed the course satisfactorily.

91. At the seventh session (2001), the Legal and Technical Commission was provided by the secretariat with a report on the status of training provided by the registered pioneer investors since 1990. The Commission took note of the report, which it considered to be a useful basis for the consideration of any future training programmes.

C. *Adoption of the Regulations on Prospecting and Exploration for Polymetallic Nodules*

92. The Legal and Technical Commission commenced work on a set of draft regulations covering prospecting and exploration for polymetallic nodules at the third session, in March 1997. Initial discussions were based on a draft of the regulations prepared by the Secretariat,⁸⁹ which in turn drew in part upon the work carried out by the Preparatory Commission between 1984 and 1993.⁹⁰ The initial draft prepared by the Secretariat dealt with prospecting, application for and approval of a plan of work for exploration leading to a contract and the basic terms and conditions of the contract. Certain basic principles and procedures relating to the protection of the marine environment were incorporated. The draft made special provision, in accordance with the provisions of the Agreement, for the registered pioneer investors.

93. At the end of its meeting in March 1997, the Legal and Technical Commission circulated an informal draft of a provisional text,⁹¹ which, in addition to the text prepared by the secretariat, included as annexes the forms to be used to notify the Authority of prospecting and to apply for a plan of work for exploration. Prior to the next meeting of the Commission, the secretariat prepared in July 1997 a set of draft standard clauses for exploration contracts.⁹² In August 1997, a consolidated version of the provisional text of the regulations and the draft standard clauses was issued under the symbol ISBA/3/LTC/WP.1/Rev.2.⁹³ The Commission considered that document at its August 1997 meeting. At the end of the meeting, a revised provisional text was issued.⁹⁴ Members of the Authority were invited to submit comments on the new text by 31 December 1997.⁹⁵ The Commission completed its work on the draft regulations at its meeting in March 1998,⁹⁶ and the draft was presented to the Council on 23 March 1998.

94. The Council began its consideration of the draft regulations recommended by the Legal and Technical Commission in March 1998 with a general debate open to participation by members of the Council and observers. The remainder of the March 1998 session was devoted to an examination of the draft, regulation by regulation. This examination was conducted in informal session, open to participation by all interested members of the Authority.⁹⁷ This regulation-by-regulation examination of the text continued throughout the resumed fourth session of the Authority, in August 1998. On the basis of these discussions, the Secretariat, together with the President of the Council, issued an informal revision of the preamble and regulations 2 to 21.⁹⁸

95. During the lengthy fifth session (1999), the Council continued to work on the draft regulations in the same manner. Various informal texts were issued to reflect progress,⁹⁹ and, towards the end of the session, the Council returned to consider for a second time the preamble and regulation 1, containing definitions of key terms. At the end of the session, a revised text of the entire regulations was issued by the secretariat, together with the President of the Council.¹⁰⁰ In addition, the Council decided that, with respect to the organization of work for the sixth session of the Authority in 2000, priority would be given to the work of the Council on the draft regulations, with a view to their adoption during 2000.¹⁰¹ Following consultations by the Secretary-General with the incoming President of the Council¹⁰² and with the regional groups and interest groups, the key outstanding areas of difficulty in the draft were identified, and the Council met early in the sixth session to discuss them in detail.¹⁰³

96. By the end of the first part of the sixth session, the Council had made substantial progress on most of the outstanding issues, although there remained a wide divergence of views with respect to a proposal by the Netherlands to apply a precautionary approach to seabed exploration¹⁰⁴ and a proposal by Chile, supported by other members of the Group of Latin American and Caribbean States, requiring contractors to provide an “environmental guarantee”, as well as to assume liability for damage to the marine environment after the end of the exploration phase.¹⁰⁵ At the end of the first part of the sixth session the President issued a further revised text of the regulations¹⁰⁶ and indicated his intention to continue informal consultations with a view to resolving the last remaining issues during the resumed sixth session, in July 2000. At the resumed sixth session,

following consultations with key delegations that resulted in further minor changes to the text, the President proposed the adoption of the final text of the regulations, contained in document ISBA/6/C/8 and Corr.1. The Regulations were adopted by consensus in the Council on 13 July 2000.¹⁰⁷ On the same day, the Assembly approved the Regulations without further amendment.¹⁰⁸

D. Issuance of contracts for exploration

97. The approval of the Regulations enabled the Authority finally to enter into contracts for exploration with the registered pioneer investors, thus bringing the pioneer investors within the single and definitive regime established by the Convention and the Agreement. Thus, on 29 March 2001, the Authority entered into the first 15-year contracts for exploration for polymetallic nodules in the deep seabed with the State enterprise Yuzhmorgeologiya (Russian Federation) and Interoceanmetal Joint Organization. On the same date, the Secretary-General also signed a contract with the Republic of Korea, which had been signed in Seoul on 27 April 2001 by the Minister for Maritime Affairs and Fisheries of the Republic of Korea, Woo-Taik Chung. A contract with COMRA (China) was signed at Beijing on 22 May 2001. Contracts with the Deep Ocean Resources Development Company (Japan) and IFREMER/AFERNOD (France) were signed at Kingston on 20 June 2001, and a contract between the Authority and the Government of India was signed, also at Kingston, on 24 March 2002. The signature of these exploration contracts finally brought to an end the interim regime established by resolution II and gave effect to the single regime for the Area established by the Convention, the Agreement and the Regulations.

XI. LIBRARY, PUBLICATIONS AND WEB SITE

98. The library manages the Authority's specialized collection of reference and research materials on matters relating to the law of the sea and deep seabed mining. The objective is to provide a comprehensive collection of reference materials on relevant subject matters. The library serves the needs of member States, permanent missions and researchers interested in the law of the sea and ocean affairs. It also provides essential reference and research assistance to the staff of the secretariat. In addition, the library is responsible for the archiving and distribution of the official documents of the Authority and assists with the publications programme. The regular publications of the Authority include an annual compendium of selected decisions and documents of the Authority (published in English, French and Spanish) and a handbook containing details of the membership of the Assembly and the Council, the names and addresses of permanent representatives and the names of the members of the Legal and Technical Commission and the Finance Committee.

99. The Authority has also established a programme of legal and technical publications on matters of relevance to its work. Most of these publications contain important historical material that has not been published elsewhere. In 2001, the Authority published a compendium of basic documents on the law of the sea,¹⁰⁹ which includes a consolidation of Part XI of the Convention and the annex to the 1994 Agreement, as well as the full text of the Convention, its nine annexes and associated resolutions, the implementation Agreements, the Regulations, the Final Act of UNCLOS III and other related material. In 2002, the Authority published a volume containing the full text of the documents issued during the Secretary-General's informal consultation on outstanding issues relating to the deep seabed mining provisions of the Convention.¹¹⁰ Also in 2002, the Authority published a legislative history of article 170 and annex IV to the Convention. In 2003, the Authority published a volume containing all the basic organizational texts of the Authority, available in English, French and Spanish versions. In terms of public information, the Authority also produced in 2003 a new series of brochures, in all six official languages, explaining various aspects of the work of the Authority. Dynamic and interactive versions of these brochures are accessible through the web site (<http://www.isa.org.jm>).

100. With regard to its technical publications, the Authority has to date published the proceedings of its workshops, as well as technical studies on the prospects as at 2000 for global non-living resources on the extended continental shelf¹¹¹ and on the status of polymetallic sulphides and cobalt-rich ferromanganese crusts.¹¹² A complete listing of all current publications issued by the Authority may also be found on the Authority's web site.

101. One of the important long-term projects the Authority has been working on is the systematic preservation and archiving of many of the original official documents of the Sea-Bed Committee, UNCLOS III and the Preparatory Commission. In 1999, the library engaged the services of a specialist conservation librarian to conduct a thorough review and analysis of the preservation needs of the library with respect to these documents. Since then, the recommendations made by the consultant have been progressively implemented. In the first instance, this entailed preservation of the original documents, some of which are badly deteriorated, through copying onto acid-free archival paper and their subsequent binding. These bound volumes are now available in the library. Duplicate sets of all of these volumes were also sent to the library of the International Tribunal for the Law of the Sea. The second stage of the project, which began in April 2003, was to transfer more than 20,000 pages of the documents to electronic mass storage media. As a result, in the first quarter of 2004, the Authority released a set of fully indexed and searchable CD-ROMs containing all documents in all official languages. The documents will also be made available through the web site.

102. In order to meet its key objective of providing ready access to information, an electronic cataloguing system has been developed. The electronic catalogue is available to all staff members and has been available to delegates attending sessions of the Authority since 2001. The catalogue will eventually be accessible online as an integral part of the Authority's central data repository.

103. The Authority's web site contains essential information about the Authority, primarily in English, French and Spanish. The texts of all the official documents and decisions of the organs of the Authority are available on the web site in all six official languages. Press releases are available in English and French. Official documents and press releases are available in a downloadable format to afford ready access for members of the Authority.

XII. SUBSTANTIVE WORK PROGRAMME, 2005-2007

104. To date, rather than establishing a medium-term or long-term work plan, the Authority has taken up the substantive matters referred to in the Agreement as and when appropriate. This is largely because, for at least the first six sessions, the work programme was driven by the need to make progress on matters of an organizational nature or else related to the implementation of the recommendations of the Preparatory Commission relating to the registered pioneer investors¹¹³ and the subsequent processing of applications for approval of plans of work for exploration. The organizational phase of the Authority's existence is now complete, and following the adoption in 2000 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area,¹¹⁴ the Authority has entered into 15-year exploration contracts with the former registered pioneer investors. Exploration work under these contracts is proceeding at a very slow pace and is mainly financed through government funding by sponsoring or participating States. Deep seabed mining remains uncompetitive compared to land-based mining, and there would currently appear to be no immediate or even medium-term prospect of commercial exploitation of deep seabed minerals. On the other hand, notwithstanding the fact that the market situation is not favourable for the conduct of activities in the Area, it is evident that potential mineral resources remain in situ in the Area and may have value in the future. Thus, most of the efforts of the present contractors are directed at technological research and development, long-term environmental studies and the collection and analysis of environmental baseline data.

105. For the next three years, it is proposed that the work programme of the Authority will be focused on the implementation of items (c), (d), (f), (g), (h), (i) and (j) in the list set out in

paragraph 5 of section 1 of the annex to the Agreement. It is not considered necessary or cost-effective at this stage for the Authority to invest its limited resources in studying the potential impact of mineral production from the Area on the economies of developing land-based producers of minerals (item (e)), or in the elaboration of rules, regulations and procedures for exploitation (item (k)), since it is clear that commercial exploitation is still many years away. Some of the items on the list — for example, (c) and (i) — require only passive monitoring and will require no additional resources within the secretariat, while others overlap to a greater or lesser extent. In order to carry out the functions listed in the remaining subparagraphs, the work programme of the Authority over the next three years will continue to be focused in the following five main areas:

(a) The supervisory functions of the Authority with respect to existing contracts for exploration for polymetallic nodules;

(b) The development of an appropriate regulatory framework for the future development of the mineral resources of the Area, particularly hydrothermal polymetallic sulphides and cobalt-rich crusts, including standards for the protection and preservation of the marine environment;

(c) Ongoing assessment of available data relating to prospecting and exploration for polymetallic nodules in the Clarion-Clipperton fracture zone (CCZ);

(d) The promotion and encouragement of marine scientific research in the Area through, inter alia, an ongoing programme of technical workshops, and the dissemination of the results of such research;

(e) Information-gathering and the establishment and development of unique databases of scientific and technical information with a view to obtaining a better understanding of the deep ocean environment.

106. Proposed activities under each of these headings are discussed below.

A. Supervisory functions with respect to existing contracts

1. Consideration of annual reports of contractors

107. One of the consequences of the existence of a contractual relationship between the Authority and the contractors is the obligation for contractors to submit annual reports in accordance with the provisions of the contract. In this regard, the standard clauses set out in annex 4 to the Regulations contain detailed provisions relating to the format and content of such annual reports. The objective of the reporting requirements is to establish a mechanism whereby the Authority, through the Legal and Technical Commission, can be provided with the information necessary to carry out its responsibilities under the Convention, particularly those relating to the protection of the marine environment from the harmful effects of activities in the Area. Additional guidance for contractors in preparing their annual reports has been provided in the form of the recommendations for the guidance of contractors, issued by the Legal and Technical Commission in 2001.¹¹⁵

108. At its meeting during the eighth session (2002), the Legal and Technical Commission evaluated the first set of annual reports submitted by contractors pursuant to the Regulations. The Commission acknowledged the efforts made by the contractors to produce their first annual reports and the significant improvement of these reports over the periodic reports submitted during the pioneer investor regime. However, it also noted that there were a number of elements missing from some of the reports and therefore made specific recommendations for the submission of additional data and information by the contractors concerned in relation to those elements.¹¹⁶ In addition, the Commission adopted a recommended format and structure for annual reports, including a standardized contents list.¹¹⁷ The Commission adopted a similar methodology for the consideration of the annual reports of contractors during the ninth session (2003). In evaluating the reports for

2002, the Commission noted with appreciation that, in general, the contractors had taken note of the recommended format and structure for the annual reports suggested by the Commission.

2. *Standardization of environmental data*

109. In 2004, the Commission will consider the outcomes of the Authority's workshop on standardization of environmental data and information (see para. 126). It is anticipated that the Commission will then issue a further set of guidelines to contractors on standards to be used for environmental data collection and submission. Some of the recommendations of the workshop were the establishment of a common database by the Authority linking contractor and non-contractor databases and its publication on the Internet; taxonomic standardization of species identification to ensure that species are identified similarly during taxonomic analyses of samples that may have been taken by different contractors, in different locations and at different times; exchanges of seagoing scientists, to enable them to compare and standardize field procedures; and cooperative cruises to allow for the exchange of samples, technologies and protocols. The workshop also recommended that the Authority convene workshops for scientists and technicians involved in environmental monitoring of exploration activities to enable them to share, compare and standardize procedures. By definition, this work will be focused on the CCZ in the Pacific Ocean and on the Central Indian Ocean basin.

3. *Environmental databases*

110. During the three-year period, the Secretariat will also establish environmental databases of the best-known nodule-bearing provinces in the CCZ and the Central Indian Ocean basin. These databases will assist the Authority to regulate the activities of contractors in respect of environmental requirements and to manage the environmental impacts of deep seabed polymetallic nodule mining when it occurs. The databases will include benthic/biological databases of the CCZ and Central Indian Ocean basin, as well as carbonate compensation depth, oxygen minimum zone, organic carbon, sediments, sedimentation, bioturbation and ocean currents. The establishment of these databases will require the Secretariat to undertake literature searches to identify the sources and availability of data, to identify and select suitable databases, assemble private (from contractors) and public data, generate geographic information system files, screen the data and introduce them into the selected databases. Methods to be utilized to facilitate this work will include meetings of experts in the relevant fields and the establishment of cooperative arrangements with contractors and other private institutions for data exchange and for the establishment of data protocols. Outputs will include web-enabled bibliographic databases, a web-enabled environmental database linked to contractor and non-contractor databases, information notes on databases and periodic reports to the Authority and its organs on the status of these databases. It is expected that the databases will form the basis for the environmental monitoring programmes of the Authority for polymetallic nodule exploration and mining.

B. Regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts

111. In the light of the request made in 1998 by the delegation of the Russian Federation for the Authority to develop regulations for prospecting and exploration for deep sea polymetallic sulphide deposits and cobalt crusts, and following a workshop on the status of and prospects for such other minerals, held in June 2000, a document was prepared for the consideration of the Council at the seventh session (2001) on considerations relating to the proposed regulations. That document contains a summary of the discussions that took place in the workshop on the possible elements of a regime for prospecting and exploration for polymetallic sulphides and cobalt crusts.¹¹⁸

112. During the seventh session, the Council held extensive discussions on how to proceed with the consideration of the issues set out in ISBA/7/C/2. It decided to continue its consideration of

issues associated with the elaboration of the regulations at the eighth session (2002) and in the meantime requested the Secretariat to provide additional background information to facilitate further discussions. It also decided that the Legal and Technical Commission should commence consideration of the issues. Consequently, during the eighth session, a one-day seminar was convened at which presentations were made by invited experts on the status of and prospects for polymetallic sulphides and cobalt-rich ferromanganese crusts. Subsequently, the Legal and Technical Commission began preliminary consideration of the subject by reviewing the approaches suggested in ISBA/7/C/2. The Commission emphasized the need to proceed cautiously and in a logical manner towards the development of regulations. It was emphasized that, bearing in mind the uncertainties associated with activities in the Area, any scheme for prospecting and exploration should be subject to review after an initial period. While prospecting and exploration should be encouraged, and potential prospectors should therefore be provided with rights over particular areas and priority to apply for exploration contracts, there was also a need to ensure that the Authority received adequate data and information, particularly with regard to the protection and preservation of the marine environment.¹¹⁹

113. The Commission requested the Secretariat to provide it with further information on the problems associated with sulphides and crusts prior to its meeting in 2003. Key issues associated with the regulations that were identified by the Commission as matters for further discussion included a progressive fee system rather than a relinquishment system, further consideration of the grid system for licensing and continued development and elaboration of the parallel system as it applied to these resources. At the ninth session (2003), the Commission met for two weeks. During the first week, the members of the Commission convened informal working groups for detailed consideration of certain aspects of the proposed regulations. To facilitate further discussion by the Commission in 2004, the secretariat has prepared a complete set of draft regulations. The draft regulations are based on the existing regulations on prospecting and exploration for polymetallic nodules in the Area, but incorporating the model clauses developed by the secretariat in 2001 together with some of the elements that emerged from discussions in the Commission during 2002 and 2003. These will be taken up by the Commission at its meeting in 2004, following which the draft regulations will be submitted to the Council for consideration.

C. Ongoing assessment of available data relating to prospecting and exploration for polymetallic nodules

114. Shortly after the establishment of the Authority, the secretariat established a database of polymetallic nodule resources in the areas reserved for the conduct of activities by the Authority through the Enterprise or in association with developing States.¹²⁰ POLYDAT, the name of the database that was created, contains information and data from the applications submitted by the pioneer investors at the time of their registration. These include mapping data and nodule location, grade and concentration (abundance) data for six areas in the CCZ contributed by six registered pioneer investors, and similar data for an area in the Central Southern Indian Ocean basin contributed by India. Utilizing this database, and in accordance with paragraph 5 (j) of section 1 and paragraphs 1 (c) and (e) of section 2 of the annex to the Agreement, the secretariat took steps, in consultation with contractors, to undertake a preliminary resource assessment of the metals of interest (copper, cobalt, manganese and nickel) in polymetallic nodule deposits in reserved areas.

115. While indicating the tremendous potential of nickel, copper, cobalt and manganese resources to augment the global reserves of these metals, the resource assessment identified several weaknesses of the data and information contained in POLYDAT. These included the fact that it appeared that some of the data provided might require adjustment for consistency and the need for additional data and information, such as sampling station photographs to show nodule abundance and more accurate bathymetric data. If the database is to be used for resource assessments over vast geographic areas such as the CCZ, a major problem concerns assumptions on the continuity of nodule deposits. The size of the sampling grids used in prospecting work by the pioneer investors

varied from 60 kilometres by 60 kilometres to 12.5 kilometres by 12.5 kilometres. For most areas, the grid size that the pioneer investors used was 30 kilometres by 30 kilometres. For resource assessments, and without any additional information, the assumption one would have to make is that both nodule abundance and grade vary uniformly between sample stations 30 kilometres apart. This is certainly not the case. While many of the pioneers took photographs at stations and between stations that could help validate assumptions on abundance, none of the photographs has been made available to the Authority. As a result, the density of information in many parts of the reserved areas is sparse and inadequate for establishing the continuity of deposits. Although, as a result of the resource assessment, additional sampling station data were provided by France and by COMRA, it was recommended by the pioneer investors that the Authority establish sampling, assaying and abundance estimation protocols for future exploration work.

116. Subsequently, the secretariat engaged the services of a consultancy firm¹²¹ specialized in this field to undertake a resource evaluation of the metals of economic interest in nodules. The resource evaluation was undertaken utilizing conventional estimation techniques (polygons, inverse distance interpolation and inverse square distance interpolation) and geostatistical methods such as kriging. As part of its work, the consultancy firm developed a resource model, identified promising areas for further exploration within the reserved areas and recommended additional steps that the Authority might take to increase the accuracy of its resource assessments. A report on the efforts undertaken to produce a resource assessment of the reserved areas was presented to the Legal and Technical Commission. The Commission took note of the report and suggested that the secretariat should request from the concerned contractors any additional data and information that they might have on the reserved areas as well as try to obtain data and information on the reserved areas from potential applicants. In addition, the Commission recommended the progressive development of a geological model of the CCZ to enable the Authority to incorporate scientific findings relating to the continuity of nodule deposits and proxy data on high-grade and high-abundance nodule deposits for resource assessments.

117. As a follow-up to the Commission's recommendations, in January 2003, the Authority convened a meeting of scientists to assist the secretariat to define the type of model that would be the most appropriate to help in the understanding of the geological processes in the CCZ. The meeting also identified institutions that could make data available for use in defining different parameters of the model and made proposals on the computer software and expertise needed, as well as strategies that could be adopted to analyse the data and information from different organizations. Subsequently, from 13 to 20 May 2003, as the sixth in its series of international workshops, the Authority convened a workshop at Nadi, Fiji, to establish a geological model of polymetallic nodules of the CCZ. Participants included expert scientists in model-building, scientists involved in nodule prospecting and exploration in the deep seabed and representatives of contractors. The workshop produced a number of specific recommendations on what the model should cover and how the work should proceed and recommended a work programme leading to a reliable geological model of polymetallic nodules in the CCZ within three or four years. The model, as proposed, is designed to identify the chemical, physical and biological factors that contribute to the creation and growth of nodules. Its purpose is to assist scientists to understand the underlying geological processes and help prospectors find the most valuable deposits. The programme of work proposed by the workshop is divided into three phases, starting with data acquisition and processing, moving on to analysis, and culminating in the production of a geological model with the stated aim of improving resource assessment. One intermediate product would be an evolutionary framework for the Pacific plate underlying the CCZ, covering the past 20 million years — the lifespan of the oldest nodules. A prospector's guide is to accompany the model, giving descriptive explanations of nodule geology to complement the quantitative approach of the model. The project would rely mainly on data already available rather than original research. The model is to cover the broad range of factors that affect the two measures of greatest interest to both prospectors and scientists: abundance of nodules and their metal content. Inputs to the model will come from most fields covered by oceanography that relate to the environment of nodule deposits. These include seafloor topography and geology, as well as the structure and biology of the seawater overlying

nodules. The data are to come from two sources: entities that have contracted with the Authority to explore specified areas of the deep seabed for polymetallic nodules, and public and private research institutions.

118. The establishment of the geological model for the CCZ, in line with the recommendations of the workshop, will therefore form a key component of the secretariat's work programme during the 2005-2007 period. Work will start with data acquisition, followed by data analysis, culminating in the production of the model and the prospector's guide. Data inputs will include bathymetric data and grade and abundance data. With respect to proxy data to be used in the model, these will include the evolutionary framework of the Pacific plate that underlies the CCZ, nodule types and species, water column factors such as the oxygen minimum zone and the carbonate compensation depth, and the benthic boundary layer. Work has already been initiated on compiling data and information on the bathymetry of the CCZ. In addition to data and information available in the public domain, a number of the contractors have agreed to provide the secretariat with their bathymetric data on the CCZ.

119. It is expected that consultants will be required to assist the secretariat in developing model components. It is also assumed that each model component, when finalized, will consist of one or more sets of proxy data and clearly defined mathematical algorithms that generate predictions of nodule abundance and/or grade for any location within the CCZ. Model component developers will be provided with data sets of nodule grade and abundance to use in the calibration of their input algorithms through an FTP site to be established by the secretariat to facilitate the transfer of data sets among all parties working on the project. A report on integration procedures and protocols will be prepared and distributed to model component developers for review. Their comments will be taken into account in modifying the procedures and protocols as appropriate. Ground-truth testing of the model's predictions will then be undertaken using subsets of nodule grade and abundance data that are different from those used in calibrating input algorithms. Upon completion of the work on model components, it is proposed to convene a second workshop on the model to review and modify as necessary the methods proposed for integrating the input data into the geological model. After this workshop, it is expected that work can proceed to complete the development, testing, and documentation of the model, incorporating the recommendations of the workshop into the final design of the model.

120. Once the optimal model has been developed, predictions of nodule grade and abundance for areas of the CCZ that do not have sufficient coverage will be undertaken. Estimates of the probable accuracy that would be expected for prediction of the grade and abundance variables will also be established. Utilizing the model, an updated resource assessment of the metals of commercial interest in polymetallic nodule deposits in reserved areas of the CCZ will be undertaken. It is also intended during the period covered by the work programme to begin work on a geological model of polymetallic nodule deposits in the Central Indian Ocean basin. To this end, a meeting with scientists of the Government of India, scientific experts on polymetallic nodules in the Central Indian Ocean basin and model developers will be convened by the Authority.

121. In addition to the above, the secretariat will continue its efforts to expand the Authority's central data repository by augmenting the data and information already contained therein and generating products that provide a better indication of the possible resources of the Area. During the seven years of the Legal and Technical Commission's existence, it has made a number of requests of the secretariat in relation to the protection of the marine environment from activities in the Area. These have included, inter alia, the identification of international data repositories that collect environmental data required to monitor the impact of activities in the Area, the identification of gaps in their data coverage, the formulation of a plan to retrieve appropriate data from such sources and recommendations for the development of a database for the analysis and synthesis of such data. The Commission has also recommended that all contractors for polymetallic nodule exploration should make their environmental data on contract areas available to the Authority for this purpose. Over the next three years, the secretariat will address these tasks.

D. Promotion and encouragement of marine scientific research in the Area

122. It will be recalled that, under articles 143 and 145 of the Convention, the Authority has a general responsibility to promote and encourage the conduct of marine scientific research in the international Area and to disseminate the results of such research, and a specific duty to ensure effective protection of the marine environment from harmful effects that may arise from activities in the Area. A key factor for the Authority is that, although a significant amount of basic and applied research has been done in the past or is still in progress, it is broadly accepted that the current level of knowledge and understanding of deep sea ecology is not yet sufficient to allow conclusive risk assessment of large-scale commercial seabed mining. Effective administration of the Area requires knowledge of the Area. The only mechanisms available to the Authority (in the broadest sense of all its member States) to obtain better knowledge of the Area are through the results of general and applied marine scientific research or through active prospecting and exploration for minerals. Much knowledge has been gained by the present contractors through their prospecting and exploration work for polymetallic nodules. However, it must be borne in mind that the majority of their work is not a broad pursuit of science to help the international community to manage impacts from exploration and mining, but has been directed primarily towards commercial extraction of polymetallic nodules from the abyssal depths of the oceans. In order to be able in the future to manage the impacts from mineral development in the Area in such a way as to prevent serious harm to the marine environment, it will be essential for the Authority to have better knowledge of the state and vulnerability of the marine environment in mineral-bearing provinces. This includes, *inter alia*, knowledge of baseline conditions in these areas, the natural variability of these baseline conditions and the relationship with impacts related to exploration and mining.

123. The most immediate and practical way in which the Authority has begun to implement its responsibilities under the Convention and to fulfil its various mandates under paragraph 5 of section 1 of the annex to the Agreement, particularly under subparagraphs (f) to (j), has been through the establishment of a series of expert workshops, seminars and meetings. In all its workshops, the Authority has focused on obtaining a better understanding of the mineral resources to be found in the international seabed area and the environment in which they are to be found in order to better prepare to manage the impact of exploration and mining on the environment. At all of the workshops, the need for cooperation between scientists and coordination of their efforts has been raised repeatedly, and, hence, the second major element in the Authority's efforts to promote marine scientific research has been to act as a catalyst for international collaboration in projects that will help to manage impacts from deep seabed mining and related activities.

1. Technical workshops

124. Since 1998, the Authority has established a pattern of workshops and seminars on specific issues related to deep seabed mining, with participation by internationally recognized scientists, experts, researchers and members of the Legal and Technical Commission, as well as representatives of contractors, the offshore mining industry and member States. Through these technical workshops, the Authority is able to obtain the views of recognized experts in the protection of the marine environment and other specific subjects under consideration and to obtain the most recent marine scientific research results pertinent to the subject matter. Since 1998, six such workshops have taken place, on the following themes:

- (a) Development of guidelines for the assessment of the environmental impacts from exploration for polymetallic nodules (Sanya, China, 1998);
- (b) Proposed technologies for deep seabed mining of polymetallic nodules (Kingston, 1999);
- (c) Mineral resources of the Area other than polymetallic nodules (Kingston, 2000);
- (d) Standardization of environmental data and information (Kingston, 2001);

(e) Prospects for international collaboration in marine scientific research to enhance understanding of the deep sea environment (Kingston, 2002);

(f) Development of a geological model for the CCZ (Nadi, Fiji, 2003).

125. The seventh workshop in the series will be convened at Kingston in September 2004. The objective of the workshop will be to assist the Authority to develop environmental guidelines for future exploration contractors for deposits of seafloor massive sulphides and cobalt-rich ferromanganese crusts. As was the case with polymetallic nodules, in order to monitor any impacts that occur as a result of exploration and subsequent mining for these resources, it is essential that the initial conditions be known and that they can be compared with the state of the environment once commercial activity has commenced. To ensure various studies are compatible, the programme for establishing baseline data must be carefully designed and implemented. The workshop will obtain information on proposed exploration and mining techniques for these deposits, compare and discuss information on the current state of scientific knowledge of the biological, chemical, physical and geological environments for deposits of seafloor massive sulphides and cobalt-rich ferromanganese crusts and propose guidelines for the acquisition of baseline data for these deposits. In due course, the recommendations of the workshop will be submitted to the Legal and Technical Commission to assist it in formulating future recommendations for the guidance of exploration contractors for these mineral resources.

126. During the three-year period, it is expected that another workshop will be convened to standardize the environmental data and information contained in the exploration code and in the recommended guidelines for the establishment of baselines for these two types of mineral resources. It is expected that the result of these two workshops will be to facilitate the acquisition of comparable environmental data and information by contractors that would facilitate the establishment of cohesive monitoring programmes by the Authority and contractors for the two types of resources. It is also expected that such monitoring programmes will result in the establishment of rigorous databases for the protection and preservation of the marine environment of these deposits. The third workshop to be convened during the three-year period will relate to the geological model.

2. *International collaboration in marine scientific research*

127. The Sanya workshop, in 1998, recommended that the Authority prepare an environmental studies model that would encourage cooperation among States, national scientific institutions and the pioneer investors in areas of environmental study and research. Such common studies would encourage cooperation and economy and would be cost-effective for all concerned. In the light of this recommendation, in March 1999 the secretariat convened a small group of internationally recognized scientific experts to try to identify critical issues suitable for international collaboration. The experts noted that, while the general quality of the nodule ecosystems in the CCZ is known, the actual community resistance, resilience and pattern of biodiversity are very poorly understood. They agreed that a critical issue identified at the Sanya workshop in relation to polymetallic nodules was the lack of knowledge relating to the effects of resuspension of sediment on the benthic communities. This lack of knowledge makes the prediction and sound management of mining impacts difficult. At present, for example, it is not known if the time span for the biological recovery of mined localities would be in the order of a few years or several decades.

128. These discussions led to the decision to convene in 2002 a workshop on the prospects for international collaboration in marine scientific research. The workshop focused on four key scientific issues considered appropriate for international collaboration:

(a) Levels of biodiversity, species range and gene flow in abyssal nodule provinces;

(b) Disturbance and recolonization processes at the seafloor following mining track creation and plume resedimentation;

(c) Mining plume impacts on the water column ecosystems (nutrient enrichment, enhanced turbidity, heavy-metal toxicity, enhanced oxygen demand);

(d) Natural variability in nodule province ecosystems.

129. Following the workshop, in November 2002, some of the participant scientists from international marine scientific research institutions and from exploration contractors met with representatives of the Authority at the offices of the British Antarctic Survey in Cambridge, United Kingdom of Great Britain and Northern Ireland. The purpose of the meeting was to discuss the current research being carried out by institutions and exploration contractors and to develop future collaboration between scientists from the various institutions and the contractors. A number of the proposed collaborations were envisioned to occur through the Kaplan Fund project.¹²²

130. The specific purpose of the Authority's collaboration in the Kaplan Fund project is to acquire information on biodiversity, species range and gene flow in the abyssal Pacific nodule-bearing province with a view to predicting and managing the impacts of deep seabed mining. The project focuses on determining the number of polychaete, nematode and foraminiferal species at a number of stations in the CCZ using modern molecular methods that can facilitate standardization among scientists, prospectors and contractors, and using state-of-the-art molecular and morphological techniques to evaluate levels of species overlap and rates of gene flow for key components of the polychaete, nematode and foraminiferal fauna. In this collaborative effort, contractors with the Authority will provide berth space for Kaplan scientists in return for the training required in molecular techniques that will ultimately yield standardization. Reports will be made available to the Authority on a yearly basis, with a final report containing a CD-ROM with the detailed information concerning biodiversity and gene flow in the CCZ (raw data, analysis and recommendations). The results will also be published in peer-reviewed scientific literature. Other institutions participating in the project include the British Natural History Museum; the Southampton Oceanography Centre of the United Kingdom of Great Britain and Northern Ireland; Shizuoka University, Japan; and IFREMER, France. The first cruise for the study (4 February-8 March 2003) examined an investigation area of approximately 100 square kilometres centred on latitude 14° North, longitude 119° West. The Authority has also set up collaborations with the Census of the Diversity of Abyssal Marine Life project of the Census of Marine Life to allow comparisons between the results of the Kaplan project and other studies.

131. In recent years, the broader question of how to manage risks to the environment and the biodiversity¹²³ of the high seas, including the international seabed area, has become a matter of increasing concern to the international community. For instance, the General Assembly, in paragraph 52 of its resolution 58/240 of 23 December 2003, invited "the relevant global and regional bodies, in accordance with their mandates, to investigate urgently how to better address, on a scientific basis, including the application of precaution, the threats and risks to vulnerable and threatened marine ecosystems and biodiversity in areas beyond national jurisdiction; how existing treaties and other relevant instruments can be used in this process consistent with international law, in particular with the Convention, and with the principles of an integrated ecosystem-based approach to management, including the identification of those marine ecosystem types that warrant priority attention; and to explore a range of potential approaches and tools for their protection and management". In paragraph 68 of the same resolution the General Assembly recommended that the fifth meeting of the open-ended informal consultative process on oceans and the law of the sea, in New York from 7 to 11 June 2004, consider new sustainable uses of the oceans, including the conservation and management of the biological diversity of the seabed in areas beyond national jurisdiction.

132. While a number of threats to the biodiversity of the deep oceans from various human activities are recognized, including, for example, pollution, fishing, noise pollution and ecotourism, for the Authority, the issue is quite straightforward. Inasmuch as it is the responsibility of the Authority to ensure that measures are taken to protect the flora and fauna of the marine environment from harmful effects that may arise from activities in the Area, it is obvious that evaluation of the

ecology of the deep ocean, including biodiversity associated with hydrothermal vent systems and polymetallic nodule provinces, is a very important aspect of the work of the Authority.

133. Although the Authority has to date concentrated its efforts on understanding the ecology of polymetallic nodule provinces, because that is where most data have been collected, the most immediate and current concern relating to deep ocean biodiversity appears to be the marine scientific research being carried out around active hydrothermal vents, which are highly vulnerable to detrimental environmental effects. The hydrothermal vents concentrate polymetallic sulphide deposits and disperse into the oceans metals that contribute to the accumulation of cobalt-rich ferromanganese crusts, but also provide chemical energy from the earth's core that is used by genetic resources for their growth. These genetic resources are at the base of the food chain of a diverse and rich ecosystem of life forms with high levels of biodiversity and endemism. Of the 500 species discovered thus far, some 80 to 90 per cent appear to be endemic. In such circumstances, all scientific research activities, whether done for pure scientific research, in the course of mineral prospecting or exploration, or for other commercial purposes, have the potential to cause an impact on the marine environment. Consequently, while regulating exploration and mining activities relating to polymetallic sulphides, it is clearly within the responsibility of the Authority to take measures to protect extreme biological communities associated with polymetallic sulphides and cobalt-rich crusts in the Area.

134. While it is possible to attempt to reduce the impact of scientific research, it is impossible to measure the impact scientific research has on the marine environment, as to do so would itself require scientific research. Disturbance occurs from repeated observations. More coordinated cooperation is needed to limit repeated observations and their side effects to the deep sea ecosystem. There is also a need for better coordination among marine scientific research programmes. This enters into the functions of the Authority to promote and support marine research programmes in the Area and to ensure that their results will be disseminated and available for the benefit of mankind as a whole.

135. The lack of appropriate coordinating structures has been echoed by the United Nations General Assembly's call for the creation of an effective, transparent and regular inter-agency coordination mechanism on oceans and coastal issues within the United Nations system. Improved coordination is particularly important for high seas areas because there is no institutional structure for all relevant agencies to talk about threats to these areas. Relevant international institutions include the Authority, the Food and Agriculture Organization of the United Nations, the International Maritime Organization, the World Trade Organization, the International Atomic Energy Agency, the United Nations Environment Programme, IOC/UNESCO, the International Hydrographic Organization and the Division for Ocean Affairs and the Law of the Sea, convention secretariats, including those for the Convention on Biological Diversity and the Basel Convention, and regional organizations, including regional fisheries management organizations, as well as representatives of civil society. Of those, the Authority is the only institution that has an exclusive focus on areas beyond national jurisdiction.

136. Over the next three years, the secretariat intends to explore the possibility of obtaining funding from the Global Environment Facility to assist in furthering the international collaborative work required to manage environmental impacts from deep seabed mining. Such collaboration will build upon existing collaborations between contractors and international marine scientific research institutions and will help improve knowledge of the biodiversity associated with polymetallic nodules, seafloor massive sulphides and cobalt-rich ferromanganese crusts. For example, useful international collaboration would include a centralized approach to taxonomic identification and standardized sampling protocols that are essential for developing consistency among contractors and other research institutions in species-level identifications and for establishing the geographic ranges of important species.

E. Information and data

137. In addition to POLYDAT, the Authority has also established a central data repository. The objective of the repository is to collect and centralize all public and private data and information on marine mineral resources available to the Authority. This will enable the Authority to reconcile available data and information from different sources using uniform data formats, evaluate those data and draw conclusions from them. The repository displays the acquired data and information and makes possible the elaboration of listings, graphs and maps, as well as quantitative mineral assessments. It will also enable the Authority to process information for the purposes of preparing technical reports and producing data on CD-ROM. Work on the central data repository commenced in 2000. In the preliminary phase of development, information was collected on the formats and availability of relevant data from 18 institutions worldwide. In 2001, the process of collecting data and information commenced with the collection of data relating to polymetallic nodules and cobalt-rich ferromanganese crusts. Useful data on polymetallic nodules was obtained from the United States National Geophysical Data Center. Data on cobalt-rich ferromanganese crusts was obtained from the United States Geological Survey, including information on the location, depth and thickness of known crust deposits, geochemical data and a reduced data set with a single entry for each location. The seafloor massive sulphides database contains a compilation of published and publicly available data on the chemical compositions of hydrothermal precipitates in deposits of seafloor massive sulphides from more than 2,600 sample locations worldwide.

138. In 2001, the secretariat acquired a relational database management system to support the development process. The current phase of development focuses on the development and testing of an integrated database system that can be used as a management and research tool. The system is web-enabled, and interfaces have been designed to make the central data repository accessible for authorized representatives of member States, scientists and researchers through the Authority's web site.

139. During the three-year period, the secretariat will continue to develop the central data repository in order to facilitate the dissemination of the results of marine scientific research relevant to the future commercialization of deposits of polymetallic nodules, cobalt-rich ferromanganese crusts, seafloor massive sulphides and gas hydrates. Data dictionary metafiles for the repository will be developed. Web pages will provide members of the Authority, the scientific community, prospectors and potential future applicants for plans of work for exploration with relevant information on scientific research and prospecting related to these marine mineral resources, including:

- (a) Type of deposit, geographical location, metal content of the items of commercial interest and any information on baseline environmental conditions, including biota;
- (b) A bibliographic database and recommendations for general reading;
- (c) A synthesis of research carried out on each mineral;
- (d) Lists of related projects and associated researchers;
- (e) Links to the web sites of other institutions working on related subjects.

140. Towards the end of the three-year period, the secretariat aims to assemble, in cooperation with the International Hydrographic Organization and the United Nations Cartographic Section, a digital atlas of the mineral resources of the Area. This product will be based partly on the work accomplished on the geological models of the CCZ and the Central Indian Ocean basin for polymetallic nodules, and the work done in relation to seafloor massive sulphides, cobalt-rich ferromanganese crusts and gas hydrates. The digital atlas will comprise a series of maps and charts at various scales, which will include the following global and regional information relating to mineral resources of the Area:

- (a) Natural and political boundaries of the Area;

- (b) Geological features in known mineral provinces of the Area;
- (c) Bathymetry and general seafloor relief;
- (d) The locations of all known mineral resources of the Area (phosphorite, seafloor massive sulphides, polymetallic nodules, hydrocarbons and methane hydrate deposits).

141. The Authority will also establish a database of the relevant parameters for the monitoring and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects. The database will focus on the metals of commercial interest in polymetallic nodules, seafloor massive sulphides and cobalt-rich ferromanganese crusts. In addition to compiling the relevant metal prices, the database will also seek to assemble public domain data and information on producing mines (including on reserve estimates, average grade, annual production and production cost) and on new deposits being brought on stream, by country. It will also include data on imports, exports and consumption.

XIII. CONCLUSION

142. The successful establishment of the institutional framework marks a critical milestone in the implementation of the international regime for the Area. It is evident that the Authority has made substantial progress in implementing the tasks it identified for itself in 1997. In particular, as detailed elsewhere in the present report, it has made substantial and tangible progress in formulating the rules, regulations and procedures for prospecting and exploration for polymetallic nodules. Through the Legal and Technical Commission, it has monitored the implementation by the registered pioneer investors of the remaining obligations established by resolution II and has taken the necessary steps in accordance with the Agreement to give formal recognition to the claims of the registered pioneer investors and bring them within the single regime created by the Convention and the Agreement. The Authority has also developed preliminary environmental guidelines and has carried out work on a resource assessment of the areas reserved for the Authority.

143. The Authority represents a unique experiment in international relations. It is the only international body with the responsibility of administering a global commons for the benefit of mankind. As a global body with an institutional structure and a finely balanced decision-making mechanism that safeguards the interests of all States, the Authority is well equipped to deal with new developments relating to the deep ocean and to play a more meaningful role in the international system of ocean governance. There is considerable international interest in the deep sea as the last frontier. This is evidenced by discussions taking place in many forums at the regional and the international level, including debates on the harvesting of genetic resources from the Area and the protection of biodiversity on the high seas, as well as multiple-use conflicts that will adversely affect the marine environment in the Area. In addition, debate continues on the issue of marine scientific research and how best to realize the ideals set out in the 1982 Convention concerning the dissemination of the benefits of marine scientific research and technology transfer.

144. There is growing recognition of the vital role that the ocean plays in sustaining human habitation on planet earth. There is also a call for better management of the ocean environment and its resources. It is clear that long-term epistemic management of the ocean environment or biosphere will require a thorough knowledge and catalogue of ocean resources, both living and non-living. Not only must this be done, but the results of such study must be shared among all nations. We cannot conserve or sustainably manage the marine ecosystems with little or no knowledge of the marine environment. The Authority itself cannot discharge its responsibility to administer the mineral resources of the deep seabed and to ensure that measures are taken to protect the flora and fauna of the marine environment from harmful effects that may arise from activities in the Area without adequate knowledge of the marine environment. The problem is that no single nation or institution has the financial, technological and intellectual capacity to undertake a global programme of scientific research of the magnitude that is required. To be truly effective,

international collaboration on a vast scale is required, involving scientists, researchers, organizations and Governments from around the world. We are beginning to see some such programmes take shape. The Authority's own modest efforts to develop a better understanding of the deep ocean environment are based on broad cooperation between prospective miners, research institutions and individual scientists. On a more ambitious scale, the Census of Marine Life is a programme of international research, involving more than 60 institutions from 15 countries, for assessing and explaining the diversity, distribution and abundance of marine organisms throughout the world's oceans. Likewise, the Integrated Ocean Drilling Programme, involving scientists from some 23 countries, is designed to study geological and geophysical aspects of the seabed. Many other cooperative programmes, of various levels of complexity and formality, are also taking place. But more can be done, by galvanizing international public opinion and fostering political commitment to make available greater resources for ocean research and exploration. Only in this way can the ideal of protecting, conserving or otherwise sustainably managing the marine ecosystem and its resources be realized for the benefit of humankind as a whole.

Notes

- ¹ Part XI (articles 133 to 191) is the largest single part of the Convention and was the most difficult to negotiate during the third United Nations Conference on the Law of the Sea (UNCLOS III).
- ² See General Assembly resolution 48/263.
- ³ Article 6, paragraph 1, stated that the Agreement would enter into force 30 days after 40 States had established their consent to be bound by it, provided that those 40 States included 7 of the States referred to in paragraph 1 (a) of resolution II of UNCLOS III and that at least five of those States were developed States.
- ⁴ On 15 November 1998, the following were members of the Authority on a provisional basis: Bangladesh, Belarus, Canada, Qatar, Switzerland, Ukraine, the United Arab Emirates and the United States of America. In accordance with the Agreement, these States ceased to be members of the Authority on 16 November 1998. Bangladesh, Canada and Ukraine subsequently ratified or acceded to the Convention and the Agreement and therefore became members of the Authority.
- ⁵ Ambassador Djalal had previously served as Chairman of Special Commission II in the Preparatory Commission.
- ⁶ The Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea was established by resolution I of UNCLOS III. It commenced work in 1983 and remained in existence until the conclusion of the first session of the Assembly, on 18 August 1995. The final report of the Preparatory Commission is in document LOS/PCN/153 (vols. I-XIII, plus index).
- ⁷ This practice was subsequently confirmed in rule 28 of the rules of procedure of the Assembly, which provides that the President and Vice-Presidents shall be elected "in such a way as to ensure the representative character of the Bureau".
- ⁸ LOS/PCN/WP.20/Rev.3 (reproduced in LOS/PCN/153 (vol. V)).
- ⁹ ISBA/A/WP.1 and ISBA/A/WP.2.
- ¹⁰ ISBA/A/L.2. Reproduced in *International Seabed Authority Basic Texts* (2003).
- ¹¹ See ISBA/8/A/13.
- ¹² The relevant provisions of the Convention and the Agreement (annex, section 3, paragraphs 9 (b), 10, and 15, and article 161, paragraphs 3 and 4, of the Convention) are reproduced verbatim in rules 83 to 86 of the rules of procedure of the Assembly.
- ¹³ Informal paper dated 19 November 1994. This paper was subsequently revised in the light of comments received from delegations and was reissued on 27 February 1995.
- ¹⁴ The informal consultations were conducted by the President of the Assembly and the Chairmen of the five regional groups. Following the pattern established at UNCLOS III, the United States of America was also invited to participate in the informal consultations, and this has continued to be the practice followed by the Authority.
- ¹⁵ See ISBA/A/L.8.
- ¹⁶ ISBA/A/L.9 and annexes I-VII.
- ¹⁷ See ISBA/4/A/L.6.
- ¹⁸ ISBA/4/A/5.
- ¹⁹ See ISBA/A/L.13.
- ²⁰ ISBA/7/A/7, para. 5.
- ²¹ LOS/PCN/WP.45/Rev.2.
- ²² ISBA/4/F/WP.1 and ISBA/4/FC/WP.2.
- ²³ ISBA/4/C/L.3.

24 See ISBA/5/C/10.
25 See ISBA/6/A/3.
26 The Convention provides for two organs of the Council, an Economic Planning Commission and a Legal and
Technical Commission. The Agreement, however, provides that the functions of the Economic Planning
Commission shall for the time being be carried out by the Legal and Technical Commission.
27 See ISBA/C/L.3.
28 See ISBA/7/C/6.
29 ISBA/3/LTC/WP.3; the Preparatory Commission had prepared draft rules of procedure for the Legal and
Technical Commission (LOS/PCN/WP.31/Rev.3). However, as with the rules of procedure of other organs of
the Authority, these needed to be modified in order to bring them into conformity with the provisions of the
Agreement.
30 ISBA/5/C/L.1/Rev.1.
31 ISBA/6/C/9.
32 See, for example, ISBA/8/C/6*, report of the Chairman of the Legal and Technical Commission on the work of
the Commission during the eighth session of the Authority (2002).
33 See ISBA/5/C/11.
34 ISBA/7/C/7, para. 7.
35 See ISBA/8/C/5 and ISBA/8/C/8.
36 See ISBA/9/A/7 and ISBA/9/A/9.
37 See ISBA/6/A/8, which also provides that the term of office shall begin on 1 June 2000.
38 See A/CONF.62/L.65.
39 See ISBA/A/9/Add.1.
40 ISBA/3/A/4.
41 ISBA/9/A/3.
42 See LOS/PCN/153 (vol. V) and LOS/PCN/WP.50/Rev.3.
43 See ISBA/A/15.
44 See General Assembly decision 52/458.
45 See ISBA/6/C/10.
46 See ISBA/7/A/5.
47 ST/SGB/2001/01 (ISA).
48 Agreement concerning the Relationship between the United Nations and the International Seabed Authority,
adopted by the General Assembly of the United Nations in its resolution 52/27; see paras. 74-77 below.
49 This action was duly registered by the Treaty Section of the Office of Legal Affairs of the United Nations on
13 June 2003.
50 Special arrangements apply in New York.
51 Similar arrangements were entered into by the International Tribunal for the Law of the Sea.
52 ISBA/A/12 and ISBA/C/7.
53 See General Assembly resolution 51/221.
54 See ISBA/3/A/9.
55 See ISBA/4/A/17.
56 See ISBA/5/A/12.
57 See ISBA/6/A/15.
58 LOS/PCN/WP.47/Rev.2.
59 See ISBA/5/C/11.
60 ISBA/3/A/L.3-ISBA/3/C/L.3 and Corr.1.
61 See ISBA/5/A/4 and Add.1.
62 ISBA/5/A/8-ISBA/5/C/7.
63 See ISBA/5/A/11.
64 ISBA/10/A/2; see also ISBA/7/A/2, section IV (reproduced in *Selected Decisions 7*, at 5); ISBA/8/A/5, section
VI (*Selected Decisions 8*, at 11); and ISBA/9/A/3, section V (*Selected Decisions 9*, at 3).
65 See ISBA/9/A/9, para. 8.
66 LOS/PCN/WP.49/Rev.2.
67 ISBA/3/A/WP.1/Add.1.
68 See ISBA/8/A/12; it may be noted that a similar procedure was employed by the United Nations in relation to
its emblem and flag. In that case, separate resolutions were adopted on 7 December 1946 relating to the
emblem and official seal of the United Nations and on 20 October 1947 relating to the flag of the United
Nations.
69 The status of the Authority as an autonomous international organization established under the Convention was
recognized by the United Nations General Assembly in its resolutions 49/28 and 50/23.
70 See ISBA/A/13.
71 See ISBA/C/10; in negotiating the agreement, the Secretary-General was asked to take into account the draft of

such an agreement prepared by the Preparatory Commission (LOS/PCN/WP.50/Rev.3), although in fact much of the content of that draft had been rendered redundant.

72 See General Assembly resolution 51/34.
73 See ISBA/3/A/3 and ISBA/3/A/L.4, para. 10.
74 See General Assembly resolution 52/27; on 8 September 1998, the General Assembly approved a similar relationship agreement between the United Nations and the International Tribunal for the Law of the Sea (see resolution 52/251).
75 See General Assembly resolution 51/6.
76 In accordance with the decision of the ninth Meeting of States Parties (SPLOS/48, para. 53) and rule 37 of the rules of procedure for Meetings of States Parties (SPLOS/2/Rev.3), the report of the Secretary-General of the Authority has been placed on the agenda of the Meeting of States Parties since 2000.
77 See LOS/PCN/SCN.4/WP.16/Add.5.
78 ISBA/3/A/11, para. 7. See also ISBA/3/A/4, para. 23 (annual report of the Secretary-General).
79 Convention, article 143.
80 Convention, article 145.
81 Convention, article 256.
82 1994 Agreement, annex, section 1, para. 3.
83 In the case of the Republic of Korea, which was not able to obtain a certificate of compliance before the Preparatory Commission concluded its work, a statement describing the status of the implementation of the obligations by the registered pioneer investor was issued in lieu of the certificate of compliance (ISBA/3/C/6).
84 Information of a general nature regarding the plans of work for exploration submitted by the registered pioneer investors, including details of all reports submitted both to the Preparatory Commission and to the Authority, is contained in ISBA/4/A/1/Rev.2.
85 ISBA/3/C/9.
86 ISBA/A/10. The statement of the Chairman of the Preparatory Commission at the end of the resumed twelfth session of the Preparatory Commission (1994, New York) also contained a report on the status of the implementation of the obligations of the registered pioneer investors under resolution II and the related understandings (LOS/PCN/L.115/Rev.1).
87 See ISBA/3/LTC/2.
88 See ISBA/4/C/12 and Corr.1.
89 ISBA/3/LTC/WP.1.
90 Between 1984 and 1993, Special Commission 3 of the Preparatory Commission undertook a great deal of work on a draft mining code and issued a total of 166 draft articles in the form of working papers (contained in the Final Report of the Preparatory Commission, LOS/PCN/153 (vol. XIII)). The work of Special Commission 3 therefore provided an obvious starting point for the Legal and Technical Commission in its consideration of the code, and, indeed, the 1994 Agreement (annex, section 1, para. 16) expressly required the work of the Preparatory Commission to be taken into account in the adoption of rules, regulations and procedures. Unfortunately, much of the work of Special Commission 3 was done piecemeal, over a number of years, and therefore contained significant areas of overlap. In addition, while Special Commission 3 dealt comprehensively with the process of application for approval of a plan of work, it barely touched on the contractual relationship between the contractor and the Authority; nor did it address the question of the protection of the marine environment. More fundamentally, the drafts prepared by the Preparatory Commission were elaborated before the 1994 Agreement was drafted. Much of its work was therefore superseded by the Agreement and was of limited relevance by the time the Authority began its work.
91 Issued officially on 28 May 1997 as ISBA/3/LTC.1/WP.1/Rev.1.
92 ISBA/3/LTC/WP.2.
93 Being a consolidation of documents ISBA/3/LTC/WP.1/Rev.1 and ISBA/3/LTC/WP.2.
94 ISBA/3/LTC/WP.1/Rev.3, dated 27 August 1997.
95 For a summary of the comments received, see ISBA/4/INF.1 and Add.1 and 2, and ISBA/4/CRP.1, which incorporates the comments in the form of footnotes.
96 The final draft presented to the Council was issued in document ISBA/4/C/4/Rev.1, dated 29 April 1998.
97 This procedure was proposed by the President of the Council in 1998, Joachim Koch (Germany), in order to avoid the need to reopen discussion on controversial provisions at a later stage when the Regulations would be deferred to the Assembly.
98 ISBA/4/C/CRP.1, dated 1 October 1998.
99 ISBA/5/C/CRP.1 (5 August 1999) contained recommended technical revisions to ISBA/4/C/4/Rev.1 (29 April 1998); ISBA/5/C/CRP.2 (16 August 1999) contained an informal revision of regulation 1 and regulations 22 to 33 prepared by the Secretariat, together with the President of the Council.
100 ISBA/5/C/4/Rev.1, 14 October 1999.
101 See the statement of the President on the work of the Council at the fifth session (ISBA/5/C/11).
102 Sakiusa A. Rabuka (Fiji).

103 To assist in these discussions, the Secretariat prepared a background paper (ISBA/6/C/INF.1), “Outstanding
issues with respect to the draft regulations on prospecting and exploration for polymetallic nodules in the
Area”.

104 See ISBA/5/C/L.8.

105 ISBA/6/C/L.3.

106 ISBA/6/C/2*.

107 See ISBA/6/C/12.

108 See ISBA/6/A/18; the official text of the Regulations was published in the annex to document ISBA/6/A/18
(13 July 2000).

109 *The Law of the Sea: Compendium of Basic Documents* (International Seabed Authority in collaboration with
Caribbean Law Publishing Company, Kingston, 2001).

110 *Secretary-General’s Informal Consultations on Outstanding Issues Relating to the Deep Seabed Mining
Provisions of the United Nations Convention on the Law of the Sea: Collected Documents* (International
Seabed Authority, 2002).

111 *ISA Technical Study No. 1, Global Non-Living Resources on the Extended Continental Shelf: Prospects at the
Year 2000* (International Seabed Authority, 2001).

112 *ISA Technical Study No. 2, Polymetallic Massive Sulphides and Cobalt-Rich Ferromanganese Crusts: Status
and Prospects* (International Seabed Authority, 2002).

113 Shortly after the establishment of the Authority, the Secretary-General presented a report to the Assembly that
described in detail the substantive work of the Authority and reviewed the status of the exploration work
carried out by the registered pioneer investors pursuant to resolution II (ISBA/A/10). Although this report was
not formally adopted by the Assembly, it formed the background against which much of the substantive work
of the Authority was carried out in the early years of its existence.

114 ISBA/5/A/18.

115 See ISBA/7/LTC/1/Rev.1*; the purpose of the recommendations for guidance, which were developed from the
recommendations of an international workshop held in 1998, is to describe the procedures to be followed in the
acquisition of baseline data by contractors, including the monitoring to be performed during or after any
activities having the potential to cause serious harm to the environment, and to facilitate reporting by
contractors.

116 See ISBA/8/LTC/2.

117 See ISBA/8/LTC/2, annex.

118 ISBA/7/C/2.

119 See ISBA/8/C/6*.

120 The areas reserved for the conduct of activities by the Authority in the Pacific Ocean are between longitudes
118° and 115° West and latitudes 7° and 16° North. The area reserved for the conduct of activities in the
Central Indian Ocean is between longitudes 73° and 79° East and latitudes 10° and 17° South.

121 Geostat Systems International, Inc., of Laval, Canada.

122 Referred to as the Kaplan Fund project because of its main funding source, the J. M. Kaplan Fund.

123 The term “biodiversity” has become fashionable in recent years and is often used imprecisely. Biodiversity is
merely a contraction of the term biological diversity, first used by Rosen in 1985 as part of the title for a
scientific meeting. The original term was used as a way to group ecological diversity and genetic diversity.
Diversity is a measurement of difference, meaning that biological diversity, hence biodiversity, is a measure of
biological difference. Often biodiversity refers only to species diversity, but in its true form it encompasses all
biological measurements.

**ISBA/10/A/6-
ISBA/10/C/7**

Report of the Finance Committee

Date: 28 May 2004

1. During the tenth session of the International Seabed Authority, the Finance Committee held four meetings, on 26, 27, and 28 May 2004. The Committee re-elected Mr. Hasjim Djalal as Chairman.

I. AGENDA

2. The Committee adopted the agenda, noting that consideration of the supplementary agreement between the International Seabed Authority and the Government of Jamaica would be considered under other matters.

II. BUDGET FOR THE FINANCIAL PERIOD 2005-2006

3. The Committee examined the proposed budget of the International Seabed Authority for the two-year financial period 2005-2006 (ISBA/10/A/4-ISBA/10/C/6) in the amount of 10,816,700 United States dollars. In examining the budget the Committee considered the overall nominal increase in relation to prevailing inflation rates, the work programme of the International Seabed Authority for the period from 2005 to 2007 (included in ISBA/10/A/3), the increased charges for conference services levied by the United Nations and its billing pattern, and the expenditure outcome for 2003.

4. Following the provision of some supplementary information, including clarification of the staffing table, the Committee decided to recommend the approval of the proposed budget for the financial period 2005/2006 in the amount of \$10,816,700. The Committee further noted that in accordance with the Authority's financial regulations the final assessed amount would be reduced by the application of the remaining accumulated balance of the General Administrative Fund at the end of the previous financial period. The Committee also decided to recommend that for 2005 and 2006 the Secretary-General be authorized to transfer between appropriation sections up to 30 per cent of the amount in each section. The details of the approved budget are set out in annex I to the present report.

5. The Committee requested that future budget proposals include comparative details of actual expenditure for the previous year, by budget item, showing the percentage each item contributes to the overall budget amount, as well as more detail in respect of the items in section 1 of the budget. The Committee also requested that the secretariat provide details of all its scientific programmes, including the activities and outputs under each in order to ascertain the cost-effectiveness of actions taken.

III. SCALE OF ASSESSMENTS FOR 2005-2006

6. The Committee took note of General Assembly resolution 58/1 B regarding contributions for 2004, 2005 and 2006, which incorporated a resolution on an ad hoc adjustment to the rate of assessment of Argentina (resolution 57/4) in response to an appeal by that country.

7. The Committee recommends that, in line with article 160 (2) (e) of the United Nations Convention on the Law of the Sea, the scale of assessments to the administrative budget of the International Seabed Authority for 2005-2006 be based on the scale of assessments to the regular budget of the United Nations for 2004-2005, taking into account the ceiling assessment rate of 22 per cent and the floor assessment rate of 0.01 per cent, differences in membership and the contribution of the European Community.

IV. AUDIT REPORT FOR 2003

8. The Committee considered the audit report for 2003 and accompanying financial statements. The Secretariat confirmed that the auditor did not believe there were any issues that

warranted the sending of a management letter and provided clarification about the time and effort applied on the compilation of the audit report.

V. VOLUNTARY TRUST FUND

9. The Committee expressed appreciation for the assistance provided through the voluntary trust fund to enhance the participation of members from developing countries in the meetings of the Legal and Technical Commission and the Finance Committee.

10. The Committee recommended that a strong appeal be made to members of the Authority to contribute to the fund, noting that the amount available following the tenth session would be approximately half of the amount paid into the fund.

11. Noting the residual balance of the advance made by the Secretary-General to the voluntary trust fund, the Committee decided to recommend that to supplement the voluntary contributions, the Secretary-General be authorized to advance, to the extent necessary, up to a further 10,000 United States dollars from interest from the Pioneer Fund for the operation of the voluntary trust fund in 2005.

12. The Committee also recommended that the provisional terms and conditions for the use of the fund be amended by deleting paragraph 3 (b) of the annex to the Committee's 2003 report (ISBA/9/A/5-ISBA/9/C/5), which reads "Consideration should be given to the expertise of the member, taking into account his or her qualifications, continuity in attendance and contributions to the meetings".

13. The Committee requested that the Secretary-General should provide a detailed annual report on the use and status of the fund and, in light of the decisions recorded above, decided to defer any recommendation on future funding of the voluntary fund until its next meeting in 2005.

VI. PENSION ENTITLEMENT OF THE SECRETARY-GENERAL

14. The Committee considered document ISBA/9/FC/R.1, "Terms of service of the Secretary-General of the International Seabed Authority, including pension arrangement".

15. The Committee decided to recommend that the Secretary-General of the International Seabed Authority be able to choose between the options of either joining the United Nations Joint Staff Pension Fund or the so-called "International Civil Aviation Organization (ICAO) arrangement", whereby a contribution equivalent to that otherwise payable to the United Nations Joint Staff Pension Fund be paid as a monthly supplement to the Secretary-General's remuneration.

VII. CONTRIBUTIONS

16. The Committee noted the status of contributions to the administrative budget and expressed concern about the number of member States in arrears for multiple years and the effect of that situation, including on voting processes.

17. The Committee recommended that the Assembly urge members to pay their assessed contributions on time and in full.

18. The Committee recommended that Canada and Lithuania, which became members of the Authority in 2003, contribute the following amounts towards the administrative budget of the Authority and the Working Capital Fund for 2003 and 2004.

2003

<i>States</i>	<i>Date of membership</i>	<i>United Nations scale rate 2003</i>	<i>Adjusted ISA scale 2003</i>	<i>Contribution to General Administration Fund for 2003 (United States dollars)</i>	<i>Contribution to Working Capital Fund (United States dollars)</i>
Canada	7 Dec. 2003	2.579	3.782	10 039	9 153
Lithuania	13 Dec. 2003	0.017	0.025	50	109
Total				10 058	9 262

2004 (full year)

<i>States</i>	<i>Date of membership</i>	<i>United Nations scale rate 2004</i>	<i>Adjusted ISA scale 2004 (United States dollars)</i>	<i>Contribution to General Administration Fund for 2004 (United States dollars)</i>	<i>Contribution to Working Capital Fund (United States dollars)</i>
Canada	7 Dec. 2003	2.558	3.566	138 188	0
Lithuania	13 Dec. 2003	0.017	0.024	918	0
Total				139 106	0

VIII. SUPPLEMENTARY HEADQUARTERS AGREEMENT

19. The Committee examined the Supplementary Headquarters Agreement (ISBA/10/A/2-ISBA/10/C/2) and decided to recommend to the Council and the Assembly that it be approved.

20. The Committee congratulates the Government of Jamaica and the Secretary-General on the successful completion of this important agreement and the conclusion of a long outstanding matter.

IX. RECOMMENDATIONS OF THE FINANCE COMMITTEE

21. In light of the foregoing, the Committee recommends that the Council and the Assembly:

(a) Approve the budget for the financial period 2005-2006 in the amount of 10,816,700 United States dollars, as proposed by the Secretary-General;

(b) Authorize the Secretary-General to establish the scale of assessments for 2005-2006, based on the scale used for the regular budget of the United Nations for 2004-2005, taking into account that the maximum assessment rate will be 22 per cent and the minimum rate 0.01 per cent;

(c) Urge the members of the Authority to pay their assessed contributions to the budget on time and in full;

(d) Authorize the Secretary-General to advance up to a further 10,000 United States dollars in 2005 from interest from the Pioneer Fund to supplement the voluntary trust fund, if required;

(e) Decides to provide the Secretary-General with the option to choose between the United Nations Joint Staff Pension Fund or the "ICOA arrangement" as set out in document

ISBA/9/FC/R.1. If the Secretary-General chooses the "ICAO arrangement" he/she shall inform the Assembly of this choice upon election;

(f) Approve the Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex.

ANNEXES
[not reproduced]

**ISBA/10/A/8 Decision of the Assembly of the International Seabed
Authority relating to the budget of the Authority for the
financial period 2005-2006**

Date: 2 June 2004
94th meeting

The Assembly of the International Seabed Authority,

1. Adopts the budget of the International Seabed Authority for the financial period 2005-2006 in the amount of 10,816,700 United States dollars;
2. Takes note that, in accordance with regulation 6.3 of the Financial Regulations of the International Seabed Authority, for the years 2005 and 2006, the contributions of members of the Authority shall be assessed on the basis of half of the appropriations for the financial period in the amount of 5,408,350 dollars in respect of 2005 and 5,408,350 dollars in respect of 2006, as adjusted in accordance with regulations 6.3 (a) to (d) of the Financial Regulations;
3. Requests the Secretary-General to transfer the accumulated surplus from the previous financial period to reduce the amount of assessed contributions for 2005 and 2006;
4. Decides that for each of the years 2005 and 2006 the Secretary-General is authorized to transfer between appropriation sections up to 30 per cent of the amount in each section;
5. Authorizes the Secretary-General to establish the scale of assessments for 2005 and 2006 based on the scale used for the regular budget of the United Nations for 2004 and 2005, as adjusted by the Authority, taking into account that the maximum assessment rate for the budget of the Authority for 2005 and 2006 will be 22 per cent and that the minimum assessment will be 0.01 per cent;
6. Decides that, in respect of Canada and Lithuania, which became members of the Authority in 2003, the rate of assessment and the amounts of contribution to the general administrative fund and the Working Capital Fund shall be as recommended in paragraph 18 of the report of the Finance Committee;¹
7. Also decides that advances and contributions to the budget for 2005 shall be due and payable in full within thirty days of the receipt of the communication of the Secretary-General requesting payment, or as of 1 January 2005, whichever is the later, and that advances and contributions to the budget for 2006 shall be due and payable in full within thirty days of the receipt of the communication of the Secretary-General requesting payment, or as of 1 January 2006, whichever is the later;

8. Appeals to the members of the Authority and to those States that are no longer members of the Authority following the termination of provisional membership on 16 November 1998, to pay the arrears in their contributions to the budget of the Authority and to the Working Capital Fund as soon as possible, and requests the Secretary-General to inform the members of the Authority and such other States of this appeal;

9. Authorizes the Secretary-General to advance up to a further 10,000 United States dollars in 2005 from interest from the Pioneer Fund to supplement the voluntary trust fund if required;

10. Decides to provide the Secretary-General with the option to choose between the United Nations Joint Staff Pension Fund or the “ICAO arrangement” as set out in document ISBA/9/FC/R.1. If the Secretary-General chooses the “ICAO arrangement”, he/she shall inform the Assembly of this choice upon election.

11. Also decides to approve the Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex.

Notes

¹ See ISBA/10/A/6-ISBA/10/C/7.

ISBA/10/A/11 Decision of the Assembly of the International Seabed Authority relating to the Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex

Date: 2 June 2004
95th Meeting

The Assembly of the International Seabed Authority,

Having considered the decision of the Council,¹

Having examined, at its 94th meeting, on 2 June 2004, the Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex,

Approves the Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex.²

Notes

¹ ISBA/10/C/5.

² ISBA/10/A/2-ISBA/10/C/2.

Statement of the President on the work of the Assembly at the tenth session

Date: 4 June 2005

1. The tenth session of the Assembly of the International Seabed Authority was held at Kingston, Jamaica, from 24 May to 4 June 2004.

I. ADOPTION OF THE AGENDA

2. At its 91st meeting, on 24 May 2004, the Assembly adopted its agenda for the tenth session (ISBA/10/A/L.1). Special mention was made of the commemorative session to celebrate the tenth anniversary of the establishment of the Authority.

II. ELECTION OF THE PRESIDENT AND VICE-PRESIDENTS OF THE ASSEMBLY

3. At the 91st meeting, on 24 May 2004, Dennis Francis (Trinidad and Tobago) was elected President of the Assembly for 2004. Subsequently, following consultations in the regional groups, the representatives of Namibia (African Group), Viet Nam (Asian Group), Bulgaria (Eastern European Group) and Norway (Western European and Other States Group) were elected as Vice-Presidents.

III. APPOINTMENT OF THE CREDENTIALS COMMITTEE

4. The Assembly elected a Credentials Committee in accordance with rule 24 of its rules of procedure. The following were elected as members of the Credentials Committee: Austria, Brazil, Czech Republic, Ghana, Greece, Jamaica, Japan, Malaysia and Uganda. Subsequently, Helmut Tuerk (Austria) was elected by the Committee as its Chairman. The Committee met on 1 June 2004 and held a further meeting on 3 June 2004. The meeting of 1 June 2004 examined the credentials of representatives participating in the current session. The status of those credentials was contained in a memorandum by the secretariat dated 1 June 2004. The meeting of 3 June 2004 examined credentials communicated by an additional 10 States participating in the Assembly as of 3 June 2004. The report of the Committee is contained in document ISBA/10/A/7/Rev.1. At the meeting held on 3 June 2004 the Assembly adopted the report of the Credentials Committee. The decision of the Assembly relating to credentials is contained in document ISBA/10/A/9.

IV. SPECIAL SESSION TO CELEBRATE THE TENTH ANNIVERSARY OF THE ESTABLISHMENT OF THE AUTHORITY

5. On 25 May 2004 (morning and afternoon) and 26 May 2004 (morning), the Authority held a commemorative special session to celebrate the tenth anniversary of the establishment of the International Seabed Authority. The occasion marked the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea on 16 November 1994. The International Seabed Authority was established upon entry into force of the Convention.

6. During the morning meeting of the Assembly on 25 May 2004, Dennis Francis, President of the Assembly, welcomed delegations to the commemorative special session. He pointed out that the Authority's work had now entered the crucial phase of undertaking the operational aspects of exploration for mineral resources from the deep seabed. The Assembly then heard statements by Satya N. Nandan, Secretary-General of the International Seabed Authority, and P. J. Patterson, Prime Minister of Jamaica. Ralph Zacklin, Acting Legal Counsel of the United Nations, delivered a

message from the Secretary-General of the United Nations. Statements were also made by Judge Dolliver Nelson, President of the International Tribunal for the Law of the Sea, and Judge Jose Luis Jesus, also of the Tribunal and second Chairman of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (1987-1994). Messages from Ambassador Tommy T. B. Koh, President of the Third United Nations Conference on the Law of the Sea (1980-1982), and Joseph Warioba, former Prime Minister of the United Republic of Tanzania and first Chairman of the Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea (1983-1987), were read by Nii Allotey Odunton, Deputy to the Secretary-General of the International Seabed Authority and Interim Director-General of the Enterprise. On behalf of the five regional groups, statements were made by their chairpersons: Sandile Nogxina of South Africa (African Group), Hai-ung Jung of the Republic of Korea (Asian Group), Olav Myklebust of Norway (Western European and other States Group), Antonin Parizek of the Czech Republic (Eastern European Group), and Cezar de Souza Lima of Brazil (Latin American and Caribbean States Group).

7. In his message, the Secretary-General of the United Nations commended the Authority's key role in efforts under the 1982 United Nations Convention on the Law of the Sea to manage the diverse challenges associated with ocean space and its uses. He also praised the Authority for its diligent and inspiring work over the past decade, and for showing that multilateral approaches to global challenges could be effective, equitable and enduring.

8. P. J. Patterson, Prime Minister of Jamaica, which is host to the International Seabed Authority, said his Government had done all it could to ensure that the Authority settled into its new home easily and comfortably. He said that the signing of the Headquarters Agreement in 1999 and the completion of the Supplementary Agreement, slated for adoption by the Assembly at the current session, were strong signals of his Government's long-term commitment and dedication.

9. In his statement to the Assembly, Satya N. Nandan, the Secretary-General of the Authority, said that there was an urgent need to enhance efforts in research and exploration of the oceans. In that regard, he said that last year he had drawn the attention of the United Nations General Assembly to the need for a declaration of support for ocean research and exploration. He also said that, without adequate scientific research, management of the oceans could not be conducted on a sound scientific basis.

10. Judge Dolliver Nelson, President of the International Tribunal for the Law of the Sea, appealed for the moral and material support of the international community as a whole for the successful achievement of the objectives underlying the Tribunal's establishment. He also emphasized that the Tribunal's composition ensured the representation of the principal legal systems of the world and equitable geographical distribution.

11. Judge Jose Luis Jesus said that the progress achieved by the Authority in implementing its mandate had brought the possibilities of commercial exploitation of deep seabed mineral resources a step closer to reality.

12. In his message to the Assembly, Ambassador Tommy T. B. Koh made three points. First, he said that the crowning achievement of the Convention was that it had replaced legal chaos with legal certainty; secondly, that the International Seabed Authority was the venue for functional collaboration in resource management, creating a new basis for participation in the development of ocean resources so that all nations might benefit, and, thirdly, he paid tribute to the Secretary-General of the International Seabed Authority, noting that his unique style of quiet, professional and consensus-building diplomacy was one of the secrets for the success of the Authority.

13. In his message to the Assembly, Joseph Warioba noted that it was 36 years since the distinguished Permanent Representative of Malta, Ambassador Arvid Pardo, had placed the seabed item on the agenda of the United Nations General Assembly. He said that, despite the weaknesses that existed in the Convention, it was an instrument in which all groups of States, developing and developed, could point to the contribution of an item, making it a truly universal instrument. With

regard to the order that the Convention had brought to the oceans, Mr. Warioba said that, as a result of the establishment of the exclusive economic zone, for example, serious conflicts among States had been averted, and a regime that encouraged cooperation in the administration and management of the uses and resources of the exclusive economic zone had been introduced. Mr. Warioba said that, above all, the principle and concept of the common heritage of mankind had been firmly established, and that, despite the weakening and dilution of Part XI of the Convention, the Authority was steadily contributing to ocean governance.

14. During the afternoon meeting of 25 May 2004, the Assembly heard presentations from the first of two Panels of Experts. The first Panel reviewed the achievements of the Authority and was under the chairmanship of Baidy Diene, President of the Council for 2004. Panellists were Hasjim Djalal of Indonesia, the first President of the Assembly of the Authority, who spoke on the establishment of institutions of the Authority; Inge Zaamwani of Namibia, a former Chairperson of the Legal and Technical Commission, who reviewed the work of the Commission from 1997 to the present; Yuri Kazmin of the Russian Federation, who made a presentation on administering the polymetallic nodule resources of the deep seabed; Mao Bin, Secretary-General of the China Ocean Mineral Resources Research and Development Association, who made a presentation on China's initiatives and investments in deep ocean mineral exploration; and Harsh Gupta, Secretary of the Department of Ocean Development of India, who made a presentation on the activities of India in deep ocean mineral exploration. He also emphasized the importance of contractors collaborating with each other, especially in the field of technology development for deep seabed mining and also in the exchange of data and information in order to accelerate seabed mining and to minimize its costs.

15. The second Panel of Experts, on future directions and prospects for the Authority, met on 26 May 2004. Albert Hoffman of South Africa, Chairman of the Legal and Technical Commission, moderated the Panel. Panellists were Felipe Paolillo, Permanent Representative of Uruguay to the United Nations and Co-Chairman of the United Nations Informal Consultative Process on Ocean Affairs, who made a presentation on the history of the negotiations relating to Part XI of the Convention and the International Seabed Authority and the events that had led to its establishment; Chris German of the Southampton Oceanography Centre, United Kingdom of Great Britain and Northern Ireland, made a presentation on the status and prospects for deep seabed mineral resources; P. John Lambshead of the British Natural History Museum in London made a presentation on the research being carried out on deep seabed biodiversity in the nodule provinces of the Pacific Ocean; Brian Bett of the Southampton Oceanography Centre and of the Census of Marine Life, who made a presentation on the deep-ocean environment and the protection of its biodiversity; and Tullio Scovazzi of the Faculty of Law, University of Milano-Bicocca, Milan, Italy, offered a legal perspective on the future direction of the Authority and the uncertainty of the applicable law concerning deep seabed biodiversity and the need for clarifying this law.

V. ELECTION TO FILL A VACANCY ON THE FINANCE COMMITTEE

16. At the 93rd meeting of the Assembly, a representative of the Eastern European Group informed the Assembly that the Group would be unable to nominate a candidate to fill the vacancy created by the resignation of Ivo Dreiseitl of the Czech Republic until the eleventh session. The Assembly agreed to defer the election to fill the vacancy until the eleventh session pending a nomination from the Eastern European Group.

VI. ANNUAL REPORT OF THE SECRETARY-GENERAL

17. At the 92nd meeting of the Assembly, the Secretary-General introduced his annual report to the Assembly (ISBA/10/A/3), as required by article 166, paragraph 4, of the United Nations Convention on the Law of the Sea. The Secretary-General informed the Assembly that his report for 2004 recapitulated the Authority's work since its inception in November 1994. He noted that the

organizational phase of the work of the Authority was complete and that the Authority had entered into a new substantive phase. He informed the Assembly that in the next three years, 2005-2007, the secretariat's work programme would focus on, among others, the Authority's supervisory functions with respect to exploration contracts, the preparation of an appropriate regulatory regime for the future development of seafloor sulphides and cobalt-rich crusts deposits of the Area, and the promotion and encouragement of marine scientific research there. He also informed participants that a key component of the secretariat's work from 2005 to 2007 would be the establishment of a geological model of polymetallic nodule deposits in the Clarion-Clipperton fracture Zone of the Pacific Ocean, where all but one of the seven exploration contracts issued by the Authority are located. The Secretary-General stated that over the next three years, the secretariat intended to explore the possibility of obtaining funds from the Global Environment Facility to further the international collaborative work required to manage environmental impacts from deep seabed mining. In addition, the Secretary-General informed participants that he intended to explore the possibilities for seconding specialized scientific and technical staff from relevant national and international institutions to carry out specific projects within the scope of the Authority's work programme and to strengthen the Authority's technical capabilities.

18. Following the presentation by the Secretary-General, statements were made by the delegations of Argentina, Australia, Austria, the Bahamas, Brazil (on behalf of the Latin American and Caribbean Group of States and on its own behalf), Canada, China, Chile, Côte d'Ivoire, Fiji, Germany, Greece, Ghana, Guinea, Indonesia, Jamaica, Kenya, Mexico, Namibia (on behalf of the African Group), New Zealand (on behalf of the Pacific Island Group), Nigeria, Norway (on behalf of the Western European and Other States Group), Pakistan, Papua New Guinea, Poland, the Republic of Korea, the Russian Federation, South Africa, St. Kitts and Nevis, the Sudan, Trinidad and Tobago, Uganda, the United Kingdom of Great Britain and Northern Ireland and Viet Nam. The observer delegation of Morocco also made a statement. Members expressed their general satisfaction with the detailed report and indicated their support for the work programme outlined in the report for 2005-2007. A number of members made interventions on specific subjects contained in the report.

19. Members of the Assembly welcomed Canada and Lithuania, which had become parties to the 1982 Convention since the ninth session, and also welcomed the fact that Burkina Faso and Morocco were taking steps to become parties to the Convention and members of the Authority.

20. The Assembly expressed its satisfaction at the conclusion of the Supplementary Headquarters Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex (see ISBA/10/A/2-ISBA/10/C/2). The Assembly approved the Agreement, and congratulated the Secretary-General and the Government of Jamaica on the successful completion of this important agreement and the conclusion of a long-standing matter.

21. Jamaica reaffirmed its commitment to provide the most suitable and appropriate environment for the Authority to conduct its work, and advised that it had begun to implement a number of measures aimed at enhancing security around the premises of the Authority. Jamaica said that the measures included improved lighting around the perimeter of the headquarters building, the demolition or restoration of nearby derelict buildings, the provision of transportation services for local staff and the raising of the perimeter wall. Jamaica restated its unwavering commitment to the fulfilment of all its obligations under the Headquarters Agreement and stated its strong opposition to any suggestions to convene meetings of the Authority at any location other than at its headquarters in Kingston or to have meetings of the Assembly every two years. On the employment of spouses and partners of officers of secretariat staff, members of the Authority were informed that a draft text of an agreement on the matter was being completed by the Government of Jamaica to resolve this outstanding issue. Some delegations pointed to the need to strengthen the geographical balance within the secretariat and in the technical bodies of the Authority.

22. A number of the members expressed their concern with the level of contributions to the voluntary trust fund to help defray the costs of participation by members from developing countries in the meetings of the Finance Committee and the Legal and Technical Commission. At the 93rd meeting, the representative of Norway informed the Assembly that Norway would contribute US\$ 25,000.00 to the voluntary trust fund.

23. The Assembly took note of the substantive work of the Authority outlined in section XII of the report of the Secretary-General. It was noted that the Authority would only truly evolve through adjustments in its programme of work. In this regard, several delegations expressed satisfaction with the five main areas identified in paragraph 105 of the report, on which the programme of work for 2005-2007 will be focused.

24. Several delegations expressed their satisfaction with the inclusion of the promotion and encouragement of marine scientific research in the Area as a focal point in the proposed programme of work of the Authority. It was pointed out that the promotion of marine scientific research was fundamental to the work of the Authority, as was the protection and preservation of the marine environment. It was also pointed out that, since very little was known of the marine environment, the establishment of databases on the marine environment, as outlined in paragraphs 109 and 110 of the report, would be useful to members of the Authority.

25. Many delegations expressed satisfaction with the Authority's programme of scientific and technical workshops. The delegations of Côte d'Ivoire, Ghana and Kenya offered to host workshops as a means of disseminating information to greater numbers of technical staff in their regions, as did South Africa and Namibia in separate communications to the Secretary-General. In this regard, a number of delegations spoke of the need for capacity-building and encouraged the Authority to seek ways to assist in this regard.

26. Several delegations welcomed the steps being taken by the Authority with regard to biodiversity in the Area, noting that the Authority's role was to protect the marine environment from the potential harmful effects of deep seabed mining. It was noted that the evaluation of the ecology of the deep ocean was a very important aspect of the Authority's work. A few delegations expressed satisfaction with paragraph 132 of the report and stated that the Authority was the institution that should administer the exploitation of genetic materials in the Area. It was suggested that the Authority should convene a seminar on the legal issues involved in the present system of exploiting these resources. Other delegations urged the Authority to work closely with other relevant international organizations and scientific institutions that have competence and knowledge of the genetic resources of the Area. The Assembly also acknowledged the work of the Authority in promoting and encouraging marine scientific research in the Area through such projects as the Kaplan Fund project.

27. The delegation of the Republic of Korea reiterated its request to the Secretary-General to provide the Assembly, prior to the next election to the Council, with updated information on the eight States parties that have made the largest investments in preparation for and in the conduct of activities in the Area. It was noted, in this regard, that it was for the Assembly to establish lists of countries fulfilling the criteria for membership in the various groups in the Council and that there would be a need to develop a common understanding among the potential members of the group on the criteria to be used. The Assembly was informed that the members of Group B, the largest investors in seabed mining, were consulting on criteria for that group.

VII. TRIBUTE TO HELMUT BEIERSDORF

28. The Assembly held a special commemorative sitting at its 93rd meeting to honour the memory of Helmut Beiersdorf, a German geologist and member of the Legal and Technical Commission since 1998. Mr. Beiersdorf, who was 66 and had been attending the current session of the Authority, died in a boating accident on 30 May 2004. He was the Director-General of the

Federal Institute for Geosciences and Natural Resources in Hanover, Germany, at the time of his death.

29. The President of the Assembly, the Secretary-General, representatives of the five regional groups, members of the Legal and Technical Commission, and other members of the Assembly paid tribute to Mr. Beiersdorf.

VIII. BUDGET OF THE AUTHORITY FOR THE FINANCIAL PERIOD 2005-2006

30. At its 95th meeting, the Assembly considered the report and recommendations of the Finance Committee (ISBA/10/A/6-ISBA/10/C/7), noting that the recommendations had been considered and approved by the Council. Questions were raised with regard to the use of interest from the pioneer investor fund to finance the voluntary trust fund, and whether or not the scale of assessments for the administrative budget of the Authority for 2005 was final.

31. The representative of Japan submitted document ISBA/10/A/10, a draft resolution on the modalities for financing participation in the meetings of the Legal and Technical Commission and the Finance Committee, to the Assembly. The draft resolution proposed modalities, and terms and conditions for using the voluntary trust fund established to facilitate the participation of developing country members of the Legal and Technical Commission and the Finance Committee in meetings of the two bodies. The representative of Japan said that the draft resolution had been introduced because Japan felt that it was improper to use money from the pioneer fund to defray expenses of those members. He said that all resources in the fund, including principal and interest, belonged to the fund and that the Authority's financial rules prohibited their use for purposes not originally stipulated. The representative of Japan requested that the Secretary-General should provide the Assembly with the legal justification for the above action and the status of the pioneer investor fund at the eleventh session. It was pointed out that, in accordance with the Authority's rules of procedure, the Finance Committee would have to consider the contents of draft resolution ISBA/10/A/10 and make its recommendation on it to the Council, which in turn would make its recommendation to the Assembly at the eleventh session.

32. It was suggested that, in view of paragraph 5 of the decision of the Council of the Authority relating to the budget of the Authority for the financial period 2005-2006, which reads:

“Authorizes the Secretary-General to establish the scale of assessments for 2005 and 2006 based on the scale used for the regular budget of the United Nations for 2004 and 2005 as adjusted by the Authority, respectively, taking into account that the maximum assessment rate will be 22 per cent and the minimum rate 0.01 per cent”,

the scale of assessments circulated to the members of the Assembly should be considered as a preliminary scale subject to the provisions of paragraph 5 of the budget decision.

33. At its 96th meeting, following consideration of the report and of the matters outlined above, the Assembly, on the recommendation of the Council, decided:

(a) To adopt the budget of the Authority for the financial period 2005-2006 in the sum of US\$ 10,817,600.00;

(b) To adopt the scale of assessments for 2005 and 2006 in accordance with the recommendations of the Finance Committee and subject to the condition noted in paragraph 32 above;

(c) That, in respect of Canada and Lithuania, which became members of the Authority in 2003, the rate of assessment and the amounts of contributions to the general administrative fund and the Working Capital Fund shall be as recommended in paragraph 18 of the report of the Finance Committee (ISBA/10/A/6-ISBA/10/C/7).

34. In accordance with rule 94 of its rules of procedure, the Assembly decided to give due consideration at its next session in 2005 to the draft resolution (ISBA/10/A/10) introduced by Japan. This would require the Finance Committee to consider the draft resolution and to make its recommendations on it available to the Council and the Assembly.

35. The decision of the Assembly relating to the budget of the Authority for the financial period 2005-2006 is contained in document ISBA/10/A/8.

36. The Assembly appealed to all members of the Authority to pay their assessed contributions in full and on time. The Assembly also appealed to members, as well as others in a position to do so, to make contributions to the voluntary trust fund.

IX. ELECTION OF COUNCIL MEMBERS FOR THE PERIOD FROM 1 JANUARY 2005 TO 31 DECEMBER 2008

37. At its 95th meeting, the Assembly, in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea, elected 20 members of the 36-member Council for the period from 1 January 2005 to 31 December 2008. Those elected were:

- Group A (4 States from among the largest consumers or net importers of minerals derived from seabed mining): Japan and China
- Group B (4 States from those with the largest investment in seabed mining): United Kingdom and India
- Group C (4 States that are major land-based net exporters of minerals found on the deep seabed): Portugal and South Africa. (By special arrangement between them, Canada will replace Australia for the remainder of Australia's term (2005-2006))
- Group D (6 developing States representing special interests, including those with sparse populations, the land-locked or geographically disadvantaged, island, major importers or potential producers, and the least developed): Brazil, Malaysia and the Sudan
- Group E (18 States reflecting the principle of geographical distribution, as well as a balance between developed and developing States): Gabon, Namibia, Senegal, Kenya, Poland, Netherlands, Spain, Czech Republic, Argentina, Guyana, and Trinidad and Tobago.

38. The arrangements for groups A and B are without prejudice to future elections for the two groups and any interim arrangements for substitutions in those groups. One member from the Latin American and Caribbean Group will not have a vote for the year 2005, as part of the rotation in burden-sharing by regional groups other than the Eastern European Group. The decision by the Latin American and Caribbean Group on the non-voting member will be communicated to the secretariat in due course.

X. ELECTION OF THE SECRETARY-GENERAL

39. The Assembly of the International Seabed Authority, at its 96th meeting on 3 June 2004, elected the current Secretary-General of the Authority, Satya N. Nandan, to serve a third four-year term.

40. Ambassador Nandan, who had held the position since March 1996, obtained 48 votes. Ambassador Charles Manyang D'Awol of the Sudan, the choice of the African Union, obtained 29 votes.

41. The number of members present and voting was 78. The number of invalid votes was 1.

XI. NEXT MEETING OF THE ASSEMBLY

42. The next meeting of the Assembly will be held from 15 to 26 August 2005 at the Authority's headquarters in Kingston, Jamaica.

ISBA/10/C/4 Report of the Chairman of the Legal and Technical Commission on the work of the Commission during the tenth session

Date: 28 May 2004

1. The Legal and Technical Commission met from 17 to 28 May 2004. Mr. Shahid Amjad, Ms. Frida Armas Pfirter, Mr. Helmut Beiersdorf, Mr. Arne Bjørlykke, Mr. Galo Carrera Hurtado, Mr. Walter De Sá Leitão, Mr. Baïdy Diène, Mr. Miguel Dos Santos Alberto Chissano, Mr. Ivan F. Glumov, Mr. Albert Hoffmann, Mr. Yoshiaki Igarashi, Mr. Jung-Keuk Kang, Mr. Jean-Marie Auzende, Mr. Lindsay Murray Parson, Mr. Giovanni Rosa, Mr. Alfred Thomas Simpson, Mr. Rodrigo Miguel Urquiza Caroca, Mr. Yuwei Li and Mrs. Inge K. Zaamwani attended the meeting. Mr. Ferry Adamhar, Mr. Sami Ahmad Addam, Mr. Mohammed M. Gomaa, Mr. Samuel Sona Betah, and Mr. Ravindran were unable to attend the session. Mr. Jean-Pierre Lenoble resigned from the Commission. Mr. Jean Marie Auzende was elected by the Council for the remainder of Mr. Lenoble's term.

2. The Commission noted with satisfaction that the informal session it held during the week preceding the formal tenth session accommodated an effective discussion on the drafting of documents. The Commission recommends a continuation of this working style.

3. The Commission re-elected Mr. Albert Hoffmann as Chairman and Ms. Frida Maria Armas Pfirter as Vice-Chairman. During the tenth session, the Commission considered the following items:

(a) The annual reports of the contractors submitted pursuant to the Regulations on Prospecting and Exploration for polymetallic nodules in the Area;¹

(b) The draft regulations for prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area;

(c) Discussion on the role of the International Seabed Authority in relation to the management of biodiversity in the Area;

(d) Update on progress with the geological model of the Clarion-Clipperton Fracture Zone;

(e) Recommendations of the workshop on standardization of environmental data and information.

4. At the outset, while welcoming Mr. Auzende as a new member, the Chairman, on behalf of the Commission, expressed his deep appreciation of the work of Mr. Lenoble and for his outstanding contributions and requested Mr. Auzende to convey the sentiments of the Commission to him.

I. ANNUAL REPORT OF CONTRACTORS

5. The Commission considered and evaluated the annual reports of contractors submitted pursuant to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (“the Regulations”). The Commission was provided with a status report prepared by the secretariat on the annual reports received from contractors. The third set of annual reports by contractors was due to be received at the end of March 2004. As of 19 April 2004, annual reports had been received from all the seven contractors, namely Deep Ocean Resources Development Ltd. (DORD), the Government of the Republic of Korea, China Ocean Mineral Resources Research and Development Association (COMRA), State Enterprise Yuzhmorgeologiya (Russian Federation), Interoceanmetal Joint Organization (IOM), l’Institut français de recherche pour l’exploitation de la mer/l’Association française pour l’étude et la recherche des nodules (IFREMER/AFERNOD), and the Government of India.

6. China Ocean Mineral Resources Research and Development Association (COMRA), the Government of the Republic of Korea, and State Enterprise Yuzhmorgeologiya (Russian Federation) had also submitted to the Secretary-General of the Authority additional data and information which were not contained in their annual reports for 2002.

7. A subcommittee, composed of Mr. Arne Bjørlykke, Mr. Helmut Beiersdorf, and Mr. Rodrigo Miguel Urquiza Caroca, carried out a preliminary study of the annual reports and prepared a draft evaluation for consideration by the full Commission.

8. The Commission noted with appreciation that, in comparison with the two previous sets of annual reports for 2001 and 2002, most of the contractors followed the format and structure for annual reports recommended by the Commission during the eighth session and submitted data and information as required under the contracts for exploration. The Commission recommended that all contractors follow the format and structure for annual reports, as contained in the annex to ISBA/8/LTC/2, and requested the Secretary-General to write to the contractors accordingly.

9. The Commission noted that in certain contractors’ annual reports, important data and information were not included, especially the financial statements, and recommended that the contractors be requested to submit this data and information as soon as possible. The Commission recommended that the Secretary-General request the contractors concerned to fulfil their contractual obligations in terms of annual reports. The report and recommendations of the Legal and Technical Commission on the evaluation of the annual reports of the contractors are contained in document ISBA/10/LTC/3 dated 26 May 2004.

10. The Commission expressed its appreciation to the Subcommittee for the expeditious preliminary evaluation of annual reports, which facilitated the consideration of the reports by the Commission.

II. REGULATIONS FOR PROSPECTING AND EXPLORATION FOR POLYMETALLIC SULPHIDES AND COBALT-RICH FERROMANGANESE CRUSTS

11. In 2003, the Legal and Technical Commission requested the secretariat to prepare a consolidated and comprehensive draft of the regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area based on discussions and draft regulations developed by working groups of the Legal and Technical Commission convened during the ninth session. Accordingly, the Commission had before it the draft regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area, ISBA/10/LTC/WP.1, dated 30 January 2004, and also the annotated draft regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area, ISBA/10/LTC/CRP.2 dated 28 January 2004. In addition the secretariat also provided document ISBA/10/LTC/CRP.1, dated 28 January 2004, containing the consolidated text of the

reports of the meetings of the informal working groups of the Legal and Technical Commission held during the ninth session of the Authority.

12. During its deliberations of the draft regulations at the tenth session, the Commission also had the benefit of advice from three internationally renowned experts, Dr. James R. Hein,² Dr. Peter Herzig³ and Dr. Kim Juniper.⁴ The experts had reviewed the draft regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area, ISBA/10/LTC/WP.1, dated 30 January 2004, and participated during the first week in the deliberations of the Commission which met a week prior to the opening of the tenth session.

13. Dr. James R. Hein described the main properties and distribution of the cobalt crusts. He emphasized that the important properties of crusts are: very high porosity; extremely high surface area; extremely slow rate of growth; very high endemism making any generalization of species distribution impossible. Professor Peter Herzig presented the main characteristics of the seafloor polymetallic sulphides occurring on mid-ocean ridges. Potentially, hydrothermal vent systems can be expected to occur at approximately 10 kilometre intervals along ridges, but at our present state of knowledge, only 6 to 10 percent of these have been explored. Concerning environmental impact of polymetallic sulphide exploitation, Professor Herzig stated that it would be better to explore/mine only inactive sites to avoid destruction of hydrothermal vent fauna; it would be better to mine deposits that are sediment-free or have only a thin sediment cover; and sulphide debris formed as a consequence of mining has a high density and will settle close to the mine site. Dr. Kim Juniper suggested that any regulation should leave room to incorporate new knowledge on hydrothermal vent systems. He recalled the intimacy between vent fauna and mineral deposits. He also referred to the Canadian exclusive economic zone (EEZ) Endeavour Hydrothermal Vents Marine Protected Area devoted only to scientific research. He pointed out that any environmental statement should take place at a scale appropriate to the size of the deposit.

14. Specifically, the Commission exchanged views and solicited advice on matters relating to the size of the exploration area, the system of exploration to be recommended in the light of the experience with the system for polymetallic nodules, and the related option.

15. Discussions on environmental considerations indicated lack of adequate knowledge of seamount and vent communities. Biological communities vary according to position on the seamount, the depth of the oxygen minimum zone in reference to the seamount and the substrate on which they live. There is also a great deal of variation between seamounts that makes it difficult to predict impacts on one seamount from research on another. While environmental considerations were discussed at length, there was agreement that greater attention is required when granting exploitation licenses rather than when granting exploration licenses and that, as such, some of the more critical questions could be addressed at a later date.

16. In the light of the advice provided by the experts, the Commission reviewed the draft regulations, which were based on the existing regulations on prospecting and exploration for polymetallic nodules and the model clauses developed by the secretariat in 2001, together with the elements that emerged from the discussions in the Commission during 2002 and 2003. Intensive discussions followed on key issues concerning the definition of blocks, size of the area for exploration and relinquishment. Furthermore, because of the different distribution of these resources, in addition to the site-banking system, it is proposed that a contractor could elect to participate in an equity interest, joint venture or production sharing arrangements. Based on these discussions, the Commission felt that, despite the differences in geometry and dimensions of the two types of deposits, estimations of the likely mineable ore indicated that the total size of exploration area would be the same for each deposit. Accordingly, the Commission proposes a size of exploration area for both resources of 10,000 square kilometres, consisting of 100 contiguous blocks, each of approximately 10 by 10 kilometres. This would have the potential for localizing a mineable area with at least 40 million tons of ore for each resource and a mining operation lasting 20 years. It was further recognized that the likelihood of large areas of poor resources within an exploration area would suggest that a high relinquishment percentage is appropriate.

17. The Commission completed its deliberations of the draft regulations on the general understanding that, as far as practicable, the new regulations should follow the framework of the regulations for polymetallic nodules and be in conformity with the provisions of the Convention and the Agreement relating to part XI. The set of regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area proposed for consideration by the Council are contained in document ISBA/10/C/WP.1. The text of that document indicates in bold where new regulations are proposed. In particular these relate to regulation 1(3)(a) on definition of “block”, regulation 12 on the total area covered by the application, regulation 16 on applicant’s election of a reserved area contribution of equity interest or joint venture or production sharing participation, regulation 19 on equity interest, joint venture or production sharing participation, and regulation 27 on size of area and relinquishment. Consequential changes in respect of other regulations have also been indicated in bold.

III. UPDATED ON PROGRESS WITH THE GEOLOGICAL MODEL OF THE CLARION-CLIPPERTON FRACTURE ZONE

18. The Commission was provided with a report on the status of the development of the geological model for the Clarion-Clipperton Zone (ISBA/10/LTC/5). The document included a summary of a meeting of the Secretary-General with the contractors, which was held in New York on 20 and 21 November 2003, to discuss contributions of the contractors and participation in the development of the model. The report also contained information on data acquired from the public domain to be used as proxy data for the development of the model, as well as on a computerized basis developed to facilitate spatial data analysis, data integration, modelling and mapping of the different parameters of the geological model. The report includes information on the future activities to be carried out by the secretariat in relation to the development of the model. The Commission noted the contents of the report and wished to clarify the procedures of the secretariat in facilitating the development of the model and also concerning the future direction of the project. The Commission was of the view that a more detailed plan of work from the Secretariat should be presented on the development of the model and further that the members of the commission should be kept informed during the intersessional period.

IV. RECOMMENDATIONS OF THE WORKSHOP ON STANDARDIZATION OF ENVIRONMENTAL DATA AND INFORMATION

19. The report of the workshop on standardization was presented to the Commission, ISBA/10/LTC/4. The Commission took note of the document and wished to be clear as to the next step to be taken in view of additional recommendations contained therein as compared to the previous recommendations issued by the Legal and Technical Commission in document ISBA/7/LTC/1/Rev.1. After some discussion it was felt that since the proceedings of the workshop were available in the public domain, due account of the proceedings should be taken, while formal review should be undertaken within the time frame of the next two years, in accordance with the provisions for review contained in ISBA/7/LTC/1/Rev.1.

V. DISCUSSION ON THE ROLE OF THE INTERNATIONAL SEABED AUTHORITY IN RELATION TO THE MANAGEMENT OF BIODIVERSITY IN THE AREA

20. It may be recalled that during the ninth session, the Commission held a preliminary discussion in open session, on issues relating to biodiversity of the Area, and further agreed that Ms. Frida Maria Armas Pflirter would coordinate preparation of a paper on the legal issues associated with biodiversity in the Area at the tenth session. At an open session on 27 May 2004, Ms. Armas Pflirter presented a personal paper on legal implications related to the management of seabed living resources in the Area. The purpose of the open session was to gather information and

improve understanding of seabed biodiversity, the management and legal status of the living organisms in the Area. The paper confined its analysis of the provisions of the Convention according to the mandate of the Legal and Technical Commission. The discussions revealed a need to address relevant issues taking into account the work of other organizations.

21. At the ninth session, the Legal and Technical Commission had also asked Mr. Beiersdorf to write a proposal for a seminar related to the protection of the marine environment and high seas biodiversity during prospecting and exploration of mineral resources in the Area, using lessons learned from scientific research programmes. The Commission took note of the fact that the proposal was taken as a basis for planning a workshop by the secretariat to be held from 6 to 10 September 2004. The Commission requested to have further input during finalization of the plan.

VI. OTHER MATTERS

22. The Commission requested an exchange of views with the Secretary-General on certain matters relating to wider participation of members of the Commission in the development of workshop programmes of the Authority, the sourcing of the experts for technical advice and the choice of experts and consultants when required by the Authority. In response to the issues raised by the members, the Secretary-General pointed out that the practice has been to utilize the expertise available with the Commission and to invite members depending on the subject of the workshop. He welcomed the idea of wider participation of the members of the Legal and Technical Commission in workshops and other technical matters, while pointing out that financial support may not be always available. The Secretary-General invited the members of the Commission to suggest names of experts whose expertise could be utilized by the Authority in different technical areas. The Secretary-General welcomed the idea of having intersessional communication on various matters with members of the Commission through the password protected LTC web page, in particular, on the programmes relating to workshops and the implementation of geological models of the Clarion-Clipperton Zone. He also assured members that the relevant information on these subjects would also be available on the Authority's web site.

23. Concerns were raised regarding certain members of the Commission who have not attended the session in the past two years. The Commission recommended that the Secretary-General should write to the members concerned for explanation. According to paragraph 10 of document ISBA/5/C/11, in the case of members who had not attended consecutive meetings of the Commission, the Council requested the Secretary-General to ascertain whether such members intended to maintain their seats on the Commission.

24. The Commission raised the subject of the annual report of the Secretary-General. Since the report of the Secretary-General covers several important matters that relate to the work of the Commission, members wished to have an opportunity to discuss it in the Commission with a view to being more proactive in their work. It was decided to include the report of the Secretary-General for exchange of views as a regular feature on future agendas of the Commission.

25. In concluding the deliberations, the chairman reiterated that the Legal and Technical Commission is a technical body and a resource of the Authority. Whereas the mandate of the Commission, in accordance with the Convention and the Agreement, covers specific areas, as the Council may request, the Commission, as an expert body, should also take initiatives to engage in constructive dialogues on a regular basis.

26. The Commission wished to express its deep gratitude to Michael Lodge for his guidance and expert advice throughout all stages of its work.

Notes

¹ ISBA/6/A/18, annex.

² President, International Marine Minerals Society/United States Geological Survey.

³ Institute of Marine Sciences, University of Kiel, Germany.

⁴ Director, GEOTOP-UQAM-McGill Research Centre, University of Québec, Montréal, Canada.

ISBA/10/C/5 Decision of the Council of the International Seabed Authority relating to the Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaican Conference Centre complex

Date: 1 June 2004
91st Meeting

The Council of the International Seabed Authority,

Having considered the recommendation of the Finance Committee,¹

Having examined, at its ninety-first meeting, on 31 May 2004, the Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaican Conference Centre complex,²

Recommends that the Assembly approve the Supplementary Agreement.

Notes

¹ ISBA/10/A/6-ISBA/10/C/7, para. 19.

² ISBA/10/A/2-ISBA/10/C/2.

ISBA/10/C/8 Decision of the Council of the International Seabed Authority relating to the budget of the Authority for the financial period 2005-2006

Date: 2 June 2004
93rd Meeting

The Council of the International Seabed Authority,

Taking into account the recommendation of the Finance Committee,¹

1. Recommends to the Assembly of the International Seabed Authority for adoption the budget of the Authority for the financial period 2005-2006 in the amount of 10,816,700 United States dollars;

2. Also recommends to the Assembly for adoption the following draft resolution:

“The Assembly of the International Seabed Authority,

“1. Adopts the budget of the International Seabed Authority for the financial period 2005-2006 in the amount of 10,816,700 United States dollars;

“2. Takes note that, in accordance with regulation 6.3 of the Financial Regulations, for each of the years 2005 and 2006, the contributions of members of the Authority shall be assessed on the basis of half of the appropriations for the financial period in the amount of 5,408,350 United States dollars in respect of 2005 and 5,408,350 United States dollars in respect of 2006, as adjusted in accordance with regulations 6.3 (a)-(d) of the Financial Regulations;

“3. Requests the Secretary-General to transfer the accumulated surplus from the previous financial period to reduce the amount of assessed contributions for 2005 and 2006;

“4. Decides that, for each year, 2005 and 2006, the Secretary-General is authorized to transfer between appropriation sections up to 30 per cent of the amount in each section;

“5. Authorizes the Secretary-General to establish the scale of assessments for 2005 and 2006 based on the scale used for the regular budget of the United Nations for 2004 and 2005 as adjusted by the Authority, respectively, taking into account that the maximum assessment rate will be 22 per cent and the minimum rate 0.01 per cent.

“6. Decides that, in respect of Canada and Lithuania, which became members of the Authority in 2003, the rate of assessment and the amounts of contribution to the general administrative fund and the Working Capital Fund shall be as recommended in paragraph 18 of the report of the Finance Committee;

“7. Also decides that advances and contributions to the budget for 2005 shall be due and payable in full within thirty days of the receipt of the communication of the Secretary-General requesting payment, or as of 1 January 2005, whichever is the later, and that advances and contributions to the budget for 2006 shall be due and payable in full within thirty days of the receipt of the communication of the Secretary-General requesting payment, or as of 1 January 2006, whichever is the later;

“8. Appeals to the members of the Authority and to those States that are no longer members of the Authority following the termination of provisional membership on 16 November 1998, to pay the arrears in their contributions to the budget of the Authority and to the Working Capital Fund as soon as possible, and requests the Secretary-General to inform the members of the Authority and such other States of this appeal;

“9. Authorizes the Secretary-General to advance up to a further 10,000 United States dollars in 2005 from interest from this Pioneer Fund to supplement the voluntary trust fund if required;

“10. Decides to provide the Secretary-General with the option to choose between the United Nations Joint Staff Pension Fund or the “ICAO arrangement” as set out in document ISBA/9/FC/R.1. If the Secretary-General chooses the “ICAO arrangement” he/she shall inform the Assembly of this choice upon election,

11. Also decides to approve the Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex.”

Notes

¹ ISBA/10/A/6-ISBA/10/C/7.

ISBA/10/C/9

Decision of the Council of the International Seabed Authority concerning the candidates for the election of the Secretary-General

Date: 2 June 2004
93rd Meeting

The Council of the International Seabed Authority,

Acting in accordance with article 162, paragraph 2 (b), of the United Nations Convention on the Law of the Sea of 10 December 1982,

Proposes to the Assembly the following candidates for election as Secretary-General:

Satya N. Nandan (Fiji)

Charles Manyang D'Awol (Sudan)

ISBA/10/C/10

Statement of the President on the work of the Council at the tenth session

Date: 3 June 2004

1. The tenth session of the International Seabed Authority was held at Kingston, Jamaica, from 24 May to 4 June 2004.

I. ADOPTION OF THE AGENDA

2. At its 90th meeting, on 24 May 2004, the Council adopted the agenda for the tenth session (ISBA/10/C/3).

II. ELECTION OF THE PRESIDENT AND VICE-PRESIDENTS OF THE COUNCIL

3. At the 90th meeting, on 24 May 2004, Baïdy Diène (Senegal) was elected President of the Council for 2004. Subsequently, following consultations in the regional groups, the representatives of Brazil (Latin American and Caribbean Group), Saudi Arabia (Asian Group), Spain (Western European and Other Group) and Poland (Eastern European Group) were elected as Vice-Presidents.

III. ELECTION TO FILL A VACANCY ON THE LEGAL AND TECHNICAL COMMISSION

4. At the 90th meeting, on 24 May 2004, Jean-Marie Auzende (France) was elected to fill the vacancy on the Legal and Technical Commission caused by the resignation of Jean-Pierre Lenoble (France).

IV. BUDGET OF THE AUTHORITY FOR THE FINANCIAL PERIOD 2005-2006 AND REPORT OF THE FINANCE COMMITTEE

5. At its 92nd meeting, on 1 June 2004, the Council received the report of the Finance Committee (ISBA/10/A/6-ISBA/10/C/7). The Council took note of the contents of the report, as introduced by Hasjim Djalal (Indonesia), Chairman of the Committee. The Council considered the

proposed budget for the Authority for the financial period 2005-2006, as contained in ISBA/10/A/4/Rev.1-ISBA/10/C/6/Rev.1. In reviewing the proposed budget, the Council took into account the recommendations of the Finance Committee. The Council recommended to the Assembly for adoption the budget of the Authority for the financial period 2005-2006 in the sum of US\$ 10,816,700. The Council urged members of the Authority to pay their assessed contributions to the budget on time and in full, as recommended by the Finance Committee in its report.

6. With respect to the issue of financing the participation of members of the Legal and Technical Commission and members of the Finance Committee from developing countries, Mr. Djalal thanked Yury Kazmin, Angola, Namibia and Oman for their contributions to the voluntary trust fund. He also thanked Norway for its “touching effort” in making a contribution of US\$ 25,000 to the fund. The Council expressed its appreciation for Norway’s contribution by acclamation. Mr. Djalal appealed to all members of the Authority, as well as to others in a position to do so, to make contributions to the voluntary trust fund.

V. REPORT OF THE LEGAL AND TECHNICAL COMMISSION

7. At its 91st meeting, on 31 May 2004, the Council received the report of the Chairman of the Legal and Technical Commission on the work of the Commission during the tenth session (ISBA/10/C/4). The report was introduced by Frida Maria Armas Pfirter (Argentina), following the expression of condolences on behalf of the Commission for the tragic death on 30 May 2004 of Helmut Beiersdorf (Germany), member of the Commission. The Council noted the contents of the report. Members of the Council also expressed their appreciation to the Commission for its work during the tenth session.

8. Two members of the Council took note of the Commission’s positive evaluation of the annual reports of contractors and expressed their appreciation for the efforts made by most of the contractors by following the format and structure for annual reports recommended by the Commission. The Council also noted that the Commission had followed up its preliminary discussion on issues relating to biodiversity in the Area during the ninth session by undertaking a further discussion during the tenth session. Members of the Council expressed their support for the work of the Commission in protecting the marine environment and managing the biological resources of the world’s oceans. The Council also noted with deep sorrow and appreciation that, as requested by the Commission during the ninth session, the late Helmut Beiersdorf had been invited to write a proposal for a seminar related to the protection of the marine environment and high seas biodiversity during prospecting and exploration of mineral resources in the Area; that proposal had been taken as a basis for planning a workshop by the secretariat, to be held from 6 to 10 September 2004.

VI. SUPPLEMENTARY AGREEMENT BETWEEN THE INTERNATIONAL SEABED AUTHORITY AND THE GOVERNMENT OF JAMAICA REGARDING THE HEADQUARTERS OF THE AUTHORITY AND THE USE OF THE JAMAICA CONFERENCE CENTRE COMPLEX

9. The Council considered the Supplementary Agreement concluded between the Authority and the Government of Jamaica on 17 December 2003 as contained in ISBA/10/A/2-ISBA/10/C/2. The Council was informed by the Secretary-General that the Supplementary Agreement followed standard international arrangements of its kind. The Council was also informed by the Chairman of the Finance Committee that the Committee was satisfied with the financial implications of the Agreement and recommended that the Council and Assembly approve it, as indicated in the report of the Finance Committee (ISBA/10/A/6-ISBA/10/C/7). Having examined the Agreement, the Council decided to recommend to the Assembly that it approve the Agreement.

**VII. CONSIDERATIONS RELATING TO THE REGULATIONS FOR PROSPECTING
AND EXPLORATION FOR POLYMETALLIC SULPHIDES AND
COBALT-RICH CRUSTS IN THE AREA**

10. At its 93rd meeting, on 2 June 2004, the Council considered the provisions of the draft regulations on polymetallic sulphides and cobalt-rich crusts. Most members expressed the need for time to study the text and to consult with their Governments and, as such, there was a reluctance to discuss the details of individual provisions. Concerns were, however, raised regarding the responsibility of contractors for serious harm to the environment. One member noted that small coastal States might not be able to monitor sufficiently the environmental implications of prospecting or exploration by contractors within its proximity. In addition, some members questioned the proposed size of blocks and the requirement for contiguity of such blocks. In addition the Council recognized the need to monitor the market for the deposits and techniques for mining given technological changes. Furthermore it was recognized that the two resources, polymetallic sulphides and cobalt crusts, were fundamentally different resources and as a consequence different provisions were required to regulate each. The Secretariat informed the Council that explanatory notes would be provided on some of the technical issues in the draft regulations to enable delegations to better understand the proposed regulations in preparation for its consideration at the eleventh session.

VIII. NEXT MEETING OF THE COUNCIL

11. The next meeting of the Council will be held in 2005 on dates to be fixed following consultations between the Secretary-General and the relevant departments of the United Nations and will be announced in the Assembly.

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OF THE ASSEMBLY AND THE COUNCIL
FROM 1994 TO 2003**

Note: This cumulative index contains a complete list of the main documents of the Assembly and Council from the first session (1994) to the ninth session (2003). Documents of the International Seabed Authority begin with the letters “ISBA”. Documents of the first two sessions do not have a sessional number (e.g. ISBA/A/1), but from the third session on they do (e.g. ISBA/3/A/1). Formal Assembly and Council documents each appear in four series, -/ 1; - L.1; -/WP.1; and -/INF.1, corresponding to main documents, documents with limited distribution, working papers and information papers respectively. In addition to A and C documents there are the following series:

- ISBA/FC (Finance Committee)
- ISBA/LTC (Legal and Technical Commission)

The Authority does not keep verbatim or summary records of meetings. Sound recordings are made and retained by the Secretariat. Official accounts of the work of the Authority are to be found in the successive statements of the Presidents of the Assembly and the Council on the work of their organs, and the annual reports of the Secretary-General.

The Authority publishes annually a compendium of selected decisions and documents from each session, cited as, e.g. *Selected Decisions 9*, 1-15. Where applicable, the index below indicates the reference in the appropriate volume of the Selected Decisions.

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ISBA/6/C/L.4	Draft decision of the Council of the Authority concerning the Rules of Procedure of the Legal and Technical Commission	
ISBA/6/C/L.5	Draft decision of the Council relating to the budget for the financial period 2001-2002	
ISBA/6/C/L.6	Draft decision of the Council of the International Seabed Authority concerning the Staff Regulations of the Authority	
ISBA/6/C/L.7	Draft decision of the Council of the International Seabed Authority relating to the regulations on prospecting and exploration for polymetallic nodules in the Area	

**Citation
(Selected Decision)**

SEVENTH SESSION (2001)

Assembly

ISBA/7/A/1	Agenda of the Assembly	
ISBA/7/A/2	Report of the Secretary-General of the International Seabed Authority under Article 166, Paragraph 4, of the United Nations Convention on the Law of the Sea	7, 4-15.
ISBA/7/A/3	Election of the members of the Finance Committee	
ISBA/7/A/3/Add.1	Election of the members of the Finance Committee	
ISBA/7/A/3/Add.2	Election of the members of the Finance Committee	
ISBA/7/A/3/Add.3	Election of the members of the Finance Committee	
ISBA/7/A/3/Add.4	Election of the members of the Finance Committee	
ISBA/7/A/4 and Corr.1	Credentials of Representatives to the seventh session of the Assembly of the International Seabed Authority	
ISBA/7/A/5	Decision of the Assembly of the International Seabed Authority concerning the Staff Regulations of the Authority	7, 16.
ISBA/7/A/6	Decision of the Assembly relating to the credentials of representatives to the seventh session of the International Seabed Authority	
ISBA/7/A/7	Statement of the President on the work of the Assembly at the seventh session	7, 16-18.
ISBA/7/A/INF.1	Request for observer status to the Assembly	
ISBA/7/A/INF.2	Delegations to the seventh session of the Assembly	
ISBA/7/A/L.1	Provisional agenda of the Assembly	

Council

ISBA/7/C/1	Agenda of the Council	
ISBA/7/C/2	Considerations relating to the regulations for prospecting and exploration for hydrothermal polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area	7, 19-30.
ISBA/7/C/3	Election of the members of the Legal and Technical Committee	
ISBA/7/C/3/Add.1*	Election of the members of the Legal and Technical Commission	
ISBA/7/C/3/Add.2	Election of the members of the Legal and Technical Commission	

		Citation (Selected Decision)
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ISBA/7/C/5	Report of the Chairman of the Legal and Technical Commission on the work of the Commission during the seventh session	7, 32-35.
ISBA/7/C/6	Decision of the Council relating to the election of members of the Legal and Technical Commission	7, 35-36.
ISBA/7/C/7	Statement of the President on the work of the Council at the seventh session	7, 36-39.
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EIGHTH SESSION (2002)

Assembly

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ISBA/8/A/2	Agenda of the Assembly	
ISBA/8/A/3	Election to fill a vacancy on the Finance Committee in accordance with section 9, paragraph 5, of the annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea	
ISBA/8/A/4*	Official seal, flag and emblem of the International Seabed Authority	
ISBA/8/A/5 and Add.1	Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea	8, 9-24.
ISBA/8/A/6 ISBA/8/C/2	Proposed budget for the International Seabed Authority for the financial period 2003-2004. Report of the Secretary-General	
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ISBA/8/A/8	Credentials of representatives to the eighth session of the Assembly of the International Seabed Authority	
ISBA/8/A/9	Decision of the Assembly relating to the credentials of representatives to the eighth session of the International Seabed Authority	
ISBA/8/A/10	Decision of the Assembly of the International Seabed Authority relating to the election to fill vacancies in the Council of the Authority, in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea	8, 27-28.

		Citation (Selected Decision)
ISBA/8/A/11	Decision of the Assembly of the International Seabed Authority relating to the budget of the Authority for the financial period 2003-2004	8, 28-30.
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ISBA/8/A/13	Statement of the President on the work of the Assembly at the eighth session	8, 31-33.
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ISBA/8/A/L.2	Draft decision of the Assembly of the International Seabed Authority relating to the election to fill the vacancies on the Council of the Authority, in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea	
 Council		
ISBA/8/C/1	Agenda of the Council	
ISBA/8/C/4	Modalities for financing participation in meetings of the Legal and Technical Commission	8, 34-36.
ISBA/8/C/5	Decision of the Council of the International Seabed Authority relating to the budget of the Authority for the financial period 2003-2004	
ISBA/8/C/6*	Report of the Chairman of the Legal and Technical Commission on the work of the Commission during the eighth session	8, 36-38.
ISBA/8/C/7	Statement of the President on the work of the Council at the eighth session	8, 38-39.
ISBA/8/C/L.1	Provisional Agenda of the Council	
ISBA/8/C/L.2	Draft decision of the Council relating to the budget of the International Seabed Authority for the financial period 2003-2004	

**Citation
(Selected Decision)**

NINTH SESSION (2003)

Assembly

ISBA/9/A/1	Election to fill a vacancy on the Finance Committee in accordance with section 9 of the annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea. Note by the Secretary-General	
ISBA/9/A/2	Agenda of the Assembly	
ISBA/9/A/3	Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea	9, 1-15.
ISBA/9/A/4	Election to fill a vacancy on the Finance Committee in accordance with section 9 of the annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea. Note by the Secretary-General	
ISBA/9/A/5* ISBA/9/C/5*	Report of the Finance Committee	9, 15-18.
ISBA/9/A/6	Credentials of representatives to the ninth session of the Assembly of the International Seabed Authority. Report of the Credentials Committee	
ISBA/9/A/7	Decision of the Assembly relating to the credentials of the representatives to the ninth session of the International Seabed Authority	
ISBA/9/A/8	Statement made by the Japanese delegation to the Assembly at its ninth session. Submitted by the delegation of Japan	9, 19-20.
ISBA/9/A/9	Statement of the President on the work of the Assembly at the ninth session	9, 20-22
ISBA/9/A/INF.1	Delegations to the ninth session of the Assembly	
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Council

ISBA/9/C/1*	Election to fill a vacancy on the Legal and Technical Commission in accordance with Part XI, section 4, subsection C, article 163, paragraph 7, of the United Nations Convention on the Law of the Sea. Note by the Secretary-General	
ISBA/9/C/2	Agenda of the Council	

		Citation (Selected Decision)
ISBA/9/C/4	Report of the Chairman of the Legal and Technical Commission on the work of the Commission during the ninth session	9, 23-27.
ISBA/9/C/6*	Statement of the President on the work of the Council at the ninth session	9, 27-28.
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