



## **SELECTED DECISIONS AND DOCUMENTS OF THE NINTH SESSION**

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**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**

Date: 4 June 2003

**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”). It provides an account of the work of the Authority during the period from July 2002 to June 2003 as well as a discussion of current issues relevant to the work of the Authority and certain aspects of the anticipated future work programme of the Authority.

2. During the eighth session of the Authority in 2002, the Assembly took note of the increasingly technical emphasis in the substantive work of the Authority and commenced a debate on the implications that this might have for the future directions of the Authority as well as on its pattern of meetings. In particular, the Assembly took note of the important role of the Authority with respect to promoting and encouraging marine scientific research in the Area and endorsed the proposals made by the Secretary-General in his report for the promotion of international cooperation in research projects aimed at enhancing scientific knowledge of the deep ocean environment and its resources. In the light of the discussions that took place in the Assembly in 2002, the Secretary-General has given further consideration to the way in which the substantive work programme for the Authority might be developed to reflect current priorities and respond better to the needs of members. Section XII of the present report sets out in more detail some of the main elements of the future work programme for the Authority. The objective would be to enable the Secretary-General, in preparing his proposals for the administrative budget for the next two-year financial period (2005-2006), to develop a comprehensive three-year work programme for the Authority for consideration by the Assembly at its tenth session.

**II. MEMBERSHIP OF THE AUTHORITY**

3. In accordance with article 156, paragraph 2, of the Convention, all States parties to the Convention are *ipso facto* members of the Authority. As of 30 May 2003, 141 States and the European Community were party to the Convention and members of the Authority.

4. In the debate on the report of the Secretary-General during the eighth session of the Authority in 2002, the Assembly reiterated its concern that there remained at that time 33 members of the Authority which had become States parties to the Convention prior to the adoption 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”) and which had not yet completed the necessary procedural steps to become parties to the Agreement. The Agreement had been adopted on 28 July 1994 by the General Assembly of the United Nations in its resolution 48/263 and had entered into force on 28 July 1996. After the adoption of the Agreement, any instrument of ratification or formal confirmation of or accession to the Convention shall also represent consent to be bound by the Agreement. 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. Since the eighth session, the situation has improved as a result of the accession to the Agreement of Cameroon, Cuba, Kuwait and Mexico. As of 30 May 2003, there remain 29 members of the Authority which have not yet completed the necessary procedural steps to become parties to the Agreement. Those States are: Angola, Antigua and Barbuda, Bahrain, Bosnia and Herzegovina, Botswana, Brazil, Cape Verde, Comoros, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Gambia, Ghana, Guinea-Bissau, Guyana, Honduras, Iraq, Mali, Marshall Islands, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Somalia, Sudan, Uruguay, Viet Nam and Yemen.

5. In accordance with repeated requests by the Assembly, the Secretary-General has circulated annually a note verbale to the States parties mentioned above, drawing their attention to the need to become party to the Agreement. The last such note was circulated on 20 January 2003, in which the Secretary-General drew the attention of the States parties concerned to the relevant paragraphs of the report of the Secretary-General for 2002 and to paragraph 1 of United Nations General Assembly resolution 57/141 of 12 December 2002, calling upon all States that have not done so, in order to achieve the goal of universal participation, to become parties to the Convention and the Agreement.

### **III. PERMANENT REPRESENTATIVES TO THE AUTHORITY**

6. As at 30 May 2003, Argentina, Brazil, Cameroon, Chile, China, Costa Rica, Cuba, France, Gabon, Germany, Haiti, Italy, Jamaica, Mexico, the Netherlands, Saint Kitts and Nevis, South Africa and Trinidad and Tobago had established permanent missions to the Authority.

### **IV. SESSIONS OF THE AUTHORITY**

7. The eighth session of the Authority was held from 5 to 16 August 2002. Martin Belinga-Eboutou (Cameroon) was elected President of the Assembly for the eighth session. Fernando Pardo Huerta (Chile) was elected President of the Council.

8. The work of the Assembly during the eighth session included a debate on the annual report of the Secretary-General, the adoption of the budget of the Authority for the financial period 2003-2004 and the election of one half of the members of the Council in accordance with article 161, paragraph 3, of the Convention.

9. The Council received the report of the Chairman of the Legal and Technical Commission on the work of the Commission during the eighth session. In taking note of the report, members of the Council also expressed their appreciation to the Commission for its decision to open its meetings relating to proposed regulations on polymetallic sulphides and cobalt-rich crusts to observers. The Council furthermore took note of the evaluation of the annual reports of contractors carried out by the Commission and noted the Commission's proposals to make its work more efficient at future sessions.

10. The Council also took up the matter of considerations relating to the regulations for prospecting and exploration for polymetallic sulphides and cobalt-rich crusts in the Area. This matter is further dealt with at paragraph 36 below.

### **V. RELATIONS WITH THE HOST COUNTRY**

11. During the eighth session, the Assembly expressed its concern over the long delay in completing a supplementary agreement concerning the headquarters of the Authority, but also took note of the information contained in an addendum to the report of the Secretary-General concerning recent progress that had been made towards resolving the outstanding issues with respect to the Agreement.<sup>1</sup> The Assembly urged the Secretary-General and the Government of Jamaica to continue their efforts to conclude an agreement as soon as possible. The Secretary-General undertook to report to the members of the Authority on progress with the supplementary agreement by October 2002.

12. Regrettably, although some progress has been made, the position as at May 2003 is that no supplementary agreement has yet been concluded. In October 2002, discussions at a technical level took place between officials of the Authority and officials of the Government of Jamaica. As a result of those discussions, it was possible to clarify a number of issues relating to the costs of maintaining the headquarters building, and the Authority submitted a proposal for the calculation of maintenance costs to the Government of Jamaica on 4 October 2002. In the interests of greater transparency, the Authority also agreed to discharge forthwith all arrears of electricity charges upon the

production of certified copies of the relevant bills and that it would in future pay utility bills for the premises occupied by it directly. No response to these proposals was received until February 2003, when certified copies of utility bills were produced. In March 2003, the Authority made a payment of J\$ 2,040,127.79 in full settlement of electricity charges for its premises for the period from April 2001 to December 2002.

13. Unfortunately, no response has been forthcoming to the Authority's proposal for maintenance costs, nor has any further progress been made with respect to the issue of the cost to the Authority of the Jamaica Conference Centre as a venue for its meetings. Indeed, on 7 April 2003, without warning, the Government of Jamaica suspended air conditioning and janitorial services to the premises of the Authority, resulting in considerable disruption to the activities of the Authority, including the temporary closure of its offices. Services were not restored until 14 April.

14. The Secretary-General will report further to the Finance Committee during the ninth session with respect to the details of the outstanding issues with respect to the supplementary agreement.

## **VI. PROTOCOL ON PRIVILEGES AND IMMUNITIES**

15. The Protocol on the Privileges and Immunities of the International Seabed Authority, adopted by the Assembly at its 54th meeting, on 26 March 1998, was opened for signature in Kingston on 26 August 1998. In accordance with its article 16, the Protocol remained open for signature at United Nations Headquarters in New York until 16 August 2000. As at that date, the Protocol had been signed by 28 members of the Authority: Bahamas, Brazil, Chile, Côte d'Ivoire, Czech Republic, Egypt, Finland, Ghana, Greece, Indonesia, Italy, Jamaica, Kenya, Malta, Namibia, the Netherlands, Oman, Pakistan, Portugal, Saudi Arabia, Senegal, Slovakia, Spain, Sudan, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and Uruguay.

16. The Secretary-General is pleased to report that, 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 that date, the parties to the Protocol were Cameroon, Croatia, the Czech Republic, Egypt, Jamaica, the Netherlands, Nigeria, Slovakia, Spain and the United Kingdom. It is hoped that other members of the Authority will give consideration to early ratification of or accession to the Protocol. In this regard, it should be noted that the Protocol provides essential protection to representatives of members of the Authority who attend meetings of the Authority or who travel to or from those meetings.

## **VII. THE SECRETARIAT**

17. The secretariat is presently organized into four main functional areas: Office of the Secretary-General; Office of Administration and Management; Office of Legal Affairs; and Office of Resources and Environmental Monitoring. The approved establishment of the secretariat for 2003 was 37 posts, of which 34 were encumbered as at 30 May 2003. In 2003, the scientific and technical capacity of the secretariat was further enhanced with the recruitment of a specialized biologist to the post of Scientific Affairs Officer. As noted in previous reports of the Secretary-General, it remains difficult to attract candidates with appropriate qualifications and experience for posts in certain key technical areas. One of the main difficulties in attracting such staff relates to the lack of possibilities for employment of spouses 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 has recently called upon host Governments to give favourable consideration to permitting spouses of staff members to seek employment. The Secretary-General of the Authority intends to continue to pursue this matter with the Government of Jamaica.

18. As a result of certain difficulties encountered during 2002 and 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 during 2002. As noted in the report of the Secretary-General to the eighth session, one consequence of the increased scientific and technical emphasis in the work of the Authority is the need to consider

how best to utilize available financial and human resources to meet the demands of the changing work programme. Effective performance of the substantive work programme described in the present report is likely to require a significant strengthening of the technical capabilities of the secretariat. At the same time, there may also be an opportunity for further streamlining in the administration. The Secretary-General intends, therefore, to undertake a comprehensive review of the current structure of the secretariat, including a review of the job descriptions and classifications of existing established posts, with a view to securing greater efficiency in the allocation of resources. Any changes that may be required to the present establishment would be taken up in the budget proposal for the next financial period.

## **VIII. BUDGET AND FINANCE**

### *A. Budget*

19. Following a review of the Secretary-General's proposed budget by the Finance Committee and the decision and recommendation of the Council in relation to the budget,<sup>2</sup> the Assembly adopted the budget of the Authority for the financial period 2003-2004 in the sum of US\$ 10,509,700 (compared to \$10,506,400 for the period 2001-2002). This represents minimal change in nominal terms and a reduction in real terms in comparison with the previous financial period. Changes of note within the budget included the creation of the objects "Promotion and encouragement of the conduct of marine scientific research" as well as a significant reduction in the amounts provided for conference servicing (- \$461,900) and acquisition of furniture and equipment (- \$103,800). The budget allocation for information technology (formally classified as data-processing services) was increased by \$136,400 to provide for necessary software upgrades and licences.

20. The Authority was also able to make a substantial downward adjustment to the amount of the net assessed contributions required to finance the budget by the application of \$2,600,000 from accumulated surplus from previous years. This was made possible, in large measure, by the payment of outstanding contributions by the United States of America, as well as by savings on previous obligations. The audited accounts of the Authority for the financial period 2001-2002 were provided separately to the Finance Committee and showed a relatively small surplus that averaged only 3.4 per cent of income for each year of the budget period.

### *B. Status of contributions*

21. In accordance with the Convention and the Agreement, the administrative expenses of the Authority shall 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 shall be based upon the scale used for the regular budget of the United Nations, adjusted for differences in membership. As at 31 May 2003, contributions to the 2003 budget had been received in full from 38 States and the European Community. The total amount of net assessed contributions received as at that date was \$2,860,867, which represents 72 per cent of the net contributions requested. The Working Capital Fund as at 31 May 2003 stood at \$423,129 (97 per cent of the total).

22. In respect of previous financial periods (from 1998 to 2002), contributions of \$630,801 remained outstanding from 68 members of the Authority as at 31 May 2003. In accordance with article 184 of the Convention and rule 80 of the Rules of Procedure of the Assembly, a member of the Authority which is in arrears in the payment of its financial contribution to the Authority shall 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 May 2003, 49 members of the Authority were in arrears for a period exceeding two years. They were: Antigua and Barbuda, Argentina, Bahrain, Benin, Bolivia, Cape Verde, Comoros, Cuba, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Gabon, Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Haiti, Honduras, Iraq, Kenya, Mali, Mauritania, Myanmar, Nicaragua, Panama, Paraguay, Saint Kitts and Nevis, Sao Tome and Principe, Senegal, Seychelles, Solomon Islands, Somalia, Suriname, the former Yugoslav Republic of Macedonia, Togo, Tonga, Tunisia, Uganda, Ukraine, Uruguay, Vanuatu, Yemen, Yugoslavia, Zambia and Zimbabwe.

### *C. Voluntary trust fund*

23. One of the matters taken up by the Council during the eighth session was the question of modalities for financing the participation of members of the Legal and Technical Commission in meetings of the Commission. The Council considered the matter on the basis of a working paper prepared by the Secretariat, noting that, because of the budgetary and financial implications, the matter would also need to be considered by the Finance Committee.<sup>3</sup>

24. Acting on the recommendation of the Council, the Assembly requested the Secretary-General to establish, as an interim measure, a voluntary trust fund for the purpose of defraying the cost of participation of members of the Legal and Technical Commission from developing countries and the members of the Finance Committee from developing countries in the meetings of the Commission and of the Committee and requested the Finance Committee to consider the matter further at its next session, including the possibility of making provision from the administrative budget.<sup>4</sup> The Secretary-General is pleased to report that such a voluntary trust fund has been established and that three separate donations, totalling \$10,500, have been made to the fund.

## **IX. LIBRARY AND PUBLICATIONS**

25. 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 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, as part of the Office of Legal Affairs, the library is responsible for the archiving and distribution of the official documents of the Authority and assists with the publications programme. During the period under review, the library continued to handle requests from staff members and external users for information and documents. Many of the requests received were for information on the work, history and development of the Authority. Requests were also made for information on polymetallic sulphides, arrangements between the Authority and exploration contractors and on issues related to seabed mining and offshore development programmes, including information on the future potential and the environmental consequences of such activities, and the biodiversity of the deep ocean. Many requests received related to the Authority's publications and official documents. In some cases, requests for assistance could be satisfied through referral to the Authority's web site, where most of its official documents are available in electronic format.

26. The library continued to pursue its ongoing acquisitions programme with a view to building a comprehensive collection of reference materials and strengthening the specialized research capability of the existing collection. During the reporting period, approximately 300 books, CD-ROMs and journals were acquired. A number of items were acquired through personal donations and from institutions and libraries, including the United States National Oceanic and Atmospheric Administration, the United States Department of State and the United Nations Division for Ocean Affairs and the Law of the Sea. The Secretary-General expresses his appreciation to all donors for their valuable contributions to the library. In order to meet its key objective of providing ready access to information, the library continued to develop its electronic cataloguing system. 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.

27. One of the important long-term projects the library has been working on is the systematic preservation and archiving of the original 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 donated to the library of the International Tribunal for the Law of the Sea. The next stage of the project, which began in April 2003, will be to transfer more than 20,000 pages of the documents to electronic mass storage media. It is

expected that by September 2003, the Authority will be in a position to release a set of fully indexed and searchable CD-ROMs containing all documents in all official languages. The documents will also be made available online.

28. 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. 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 which has not been published elsewhere. In 2002, the Authority published a legislative history of article 170 and Annex IV of the Convention.<sup>5</sup> In 2003, it is intended to publish a volume containing the basic organizational texts of the Authority. 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 shelf<sup>6</sup> and on the status of polymetallic sulphides and cobalt-rich ferromanganese crusts.<sup>7</sup> A complete listing of all current publications issued by the Authority may also be found on the Authority's web site.

29. The Authority's web site ([www.isa.org.jm](http://www.isa.org.jm)) 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 by members of the Authority. In terms of public information, the Authority has 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.

## **X. SUBSTANTIVE WORK OF THE AUTHORITY**

30. The substantive work programme of the Authority is largely determined by the provisions of the Convention and the Agreement, and in particular section 1, paragraph 5, of the annex to the Agreement, which lists the items that the Authority must concentrate on between the entry into force of the Convention and the approval of the first plan of work for exploitation. To give effect to the provisions of the Agreement, the substantive work of the Authority is currently focused in 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) The promotion and encouragement of marine scientific research in the Area and coordination and dissemination of the results of such research and analysis;
- (d) Information-gathering and the establishment and development of databases of scientific and technical information with a view to obtaining a better understanding of the deep ocean environment;
- (e) Ongoing assessment of available data relating to prospecting and exploration.

### *A. Contracts for exploration*

31. It will be recalled that, during 2001, the Authority entered into the first 15-year contracts for exploration of areas of the deep seabed with the seven former registered pioneer investors. The contractors are: China Ocean Mineral Resources Research and Development Association (COMRA) (China), Deep Ocean Resources Develop-

ment Company (DORD) (Japan), Institut français de recherche pour l'exploitation de la mer/l'Association française pour l'étude et la recherche des nodules (IFREMER/AFERNOD) (France), Interoceanmetal Joint Organization (IOM) (a consortium formed by Bulgaria, Cuba, the Czech Republic, Poland, the Russian Federation and Slovakia), Yuzhmorgeologiya (Russian Federation), Republic of Korea, and India.<sup>8</sup>

32. One of the consequences of the existence of such a contractual relationship is the obligation on 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 for Prospecting and Exploration for Polymetallic Nodules in the Area contain detailed provisions relating to the format and content of such annual reports.<sup>9</sup> The objective of these reporting requirements is to establish a mechanism whereby the Authority, and particularly 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 to 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.<sup>10</sup> The purpose of the recommendations for guidance 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.

33. At its meeting during the eighth session, 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 those 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.<sup>11</sup> In addition the Commission adopted a recommended format and structure for annual reports, including a standardized contents list.<sup>12</sup> The Secretary-General subsequently conveyed the recommendations of the Commission to the contractors concerned and will report, during the ninth session, to the Commission on the status of the additional data and information received. Moreover, at the request of the contractors concerned, minor adjustments were made to the programme of activities under the contract through exchanges of letters with IOM and Yuzhmorgeologiya.

34. The second set of annual reports by contractors were due to be received at the end of March 2003. As of 10 June 2003, annual reports had been received from DORD, IOM, India, Yuzhmorgeologiya and the Republic of Korea.

#### *B. Prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area*

35. It will be recalled that, at the resumed fourth session of the Authority, in August 1998, the representative of the Russian Federation had made a request to the Authority to adopt rules, regulations and procedures for exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts.<sup>13</sup> In the light of the request to the Authority by the Russian Federation, the Secretariat in 1999 produced a preliminary review of the status of knowledge and research on those resources and in June 2000 convened an international workshop on the status of and prospects for deep seabed mineral resources other than polymetallic nodules, in particular deep sea polymetallic massive sulphide deposits and cobalt-rich ferromanganese crusts. During the seventh session of the Authority, in 2001, the Secretary-General introduced to the Council a paper prepared by the Secretariat on considerations relating to regulations for prospecting and exploration for polymetallic sulphides and cobalt-rich crusts in the Area.<sup>14</sup> Following extensive discussions, the Council decided to continue consideration of the paper at the eighth session in 2002.

36. During the eighth session, to better inform members of the Authority, the Secretariat also organized a seminar consisting of presentations by leading scientific and technical experts on the status, characteristics and prospects for deep sea polymetallic sulphides and cobalt-rich crusts as well as the marine environment where these minerals are located.<sup>15</sup> The Council then held informal meetings on 12, 14 and 15 August 2002 to discuss further the issues raised

in the Secretariat's paper in the light of the seminar and in the light of the parallel consideration of the matter by the Legal and Technical Commission. While noting that the Commission had only just begun its consideration of the proposed regulations, the Council recommended a flexible approach to the formulation of regulations, particularly in view of the lack of scientific knowledge relating to deep sea ecosystems. At the same time, it was noted that any regulations must be consistent with the overall scheme contained in the Convention, the Agreement and the existing regulations relating to polymetallic nodules. From the point of view of potential investors, the most difficult issues would be how to determine the size of the area for exploration so as to make exploration commercially viable while avoiding monopoly situations. The system for the Area also had to be competitive with regimes established for areas within national jurisdiction. The Council decided to keep the matter under consideration at the ninth session, in parallel with the formulation of draft regulations by the Legal and Technical Commission.

37. Also during the eighth session, the Legal and Technical Commission began its consideration of the issues relating to an appropriate regulatory framework for these resources in parallel with the Council. Discussions on this issue in the Commission were held in open session, in order to allow members of the Authority the opportunity to follow the debate. In its preliminary discussion of the approaches suggested in the Secretariat's paper, 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. The Authority would also need to take into account the particularly sensitive nature of the sites where such resources occur, and any regulatory framework would need to contain provisions relating to the collection of baseline data and information on the biological characteristics of areas under exploration, as well as procedures for environmental impact assessment.

38. The Commission will continue its work on a regulatory framework at its meeting during the ninth session. Among the issues associated with the regulations that will be taken up by the Commission are the issues of 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 applies to these resources.

### *C. Promotion and encouragement of marine scientific research in the Area*

39. One of the most important functions of the Authority is to promote and encourage the conduct of marine scientific research in the Area, and to coordinate and disseminate the results of such research and analysis. Under article 256 of the Convention, all States and competent international organizations have the right to conduct marine scientific research in the Area. However, unlike the situation in other jurisdictional zones (including the high seas), marine scientific research in the Area is to be carried out "for the benefit of mankind as a whole".<sup>16</sup> Paragraphs 2 and 3 of article 143 elaborate upon the respective roles of the Authority and States parties in relation to marine scientific research in the Area. In accordance with article 143, paragraph 2, the Authority is to "promote and encourage the conduct of marine scientific research in the Area, and shall coordinate and disseminate the results of such research and analysis when available". In accordance with paragraph 3, States parties shall promote international cooperation in marine scientific research in the Area, including by participating in international programmes and by ensuring that programmes are developed through the Authority or other international organizations for the benefit of developing States and technologically less developed States with a view, *inter alia*, to strengthening their research capabilities.

40. The most immediate and practical way in which the Authority has begun to implement its responsibilities under the Convention is through its programme of technical workshops. 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. Previous workshops dealt with the

assessment of environmental impacts from activities in the Area, the development of technology for deep seabed mining, the status and prospects of deep sea mineral resources other than polymetallic nodules, standardization of techniques for data collection and analysis, and prospects for international collaboration in marine environmental research to enhance understanding of the deep sea environment, including its biodiversity.

41. As a direct result of the discussions in these workshops and to further the scientific understanding of the biological environment of the mining area in the Clarion-Clipperton Fracture Zone (CCZ), the Authority is currently collaborating in a research project coordinated through the University of Hawaii to study the biodiversity, species range and gene flow in the abyssal Pacific nodule province with a view to predicting and managing the impacts of deep seabed mining. Other institutions participating in the project include the British Natural History Museum, the Southampton Oceanography Centre (United Kingdom), JAMSTEC (Japan) and IFREMER (France). The project is referred to as the Kaplan project because of its main funding source, the J. M. Kaplan Fund.<sup>17</sup> The aims of the project derive from the first workshop convened by the Authority on the development of environmental guidelines for the assessment of the environmental impacts from the exploration for polymetallic nodule deposits in the Area. That workshop had identified a number of critical factors that needed to be ascertained or established for the purpose of managing deep-seabed polymetallic nodule mining in such a way as to prevent serious harm to the marine environment, namely:

- (a) The dose-response function or the relationship between the impact on the faunal community at the seabed and the amount of sediment dropped on it;
- (b) The chronic disturbance effect or the frequency with which a plume can be produced in an area to yield sedimentation without causing a negative impact on the ecosystem;
- (c) The spatial scale sensitivity of the recovery process;
- (d) The latitudinal and longitudinal ranges of the benthic species living within nodule provinces of the CCZ;
- (e) Standardization of species collection to enable the Authority and the international community to find out if the same species are being found in the different potential nodule mining areas of the CCZ.

42. To address some of these factors, the Kaplan project focuses on:

- (a) 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;
- (b) 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.

43. The first Kaplan cruise took place from 4 February to 8 March 2003, at an investigation area at the eastern limits of the nodule zone in the CCZ whose size is approximately 100 km<sup>2</sup> centred on 14° N, 119° W. During the cruise samples were collected for macro fauna, nematodes, foraminifera, other meiofauna and bacteria. Preservation occurred such that both DNA-based and more traditional morphological studies could be carried out. DNA-based investigations are required as they are quicker and cheaper than traditional techniques, they allow for more accurate comparison between studies and are the only accurate way to measure gene flow. The samples have now been distributed to the participating institutions for analysis. The next stage of sampling will occur when scientists from the Kaplan project participate in cruises arranged by contractors and other institutions, or when contractors make samples available to scientists involved in the project. In this collaborative effort, contractors provide berth space for Kaplan scientists or take samples using the methods outlined by Kaplan scientists and make the samples available to these scientists in return for the training required in molecular techniques that will ultimately yield standardization.

The first of the cruises by contractors that will make samples available to Kaplan scientists may take place in the summer of 2003. The first cruise in which Kaplan scientists will participate will be a Japanese cruise scheduled for February 2004. Kaplan scientists also hope to participate in cruises organized by IFREMER (France), COMRA (China) and possibly the Republic of Korea in 2004.

44. Reports will be made available to the Authority at yearly intervals during the project, with a final report containing a CD-ROM that has the detailed information concerning the biodiversity and gene flow within the CCZ (raw data, analysis and recommendations). The results will also be published in peer-reviewed scientific literature.

45. The Authority has supported the project in order to, *inter alia*, ensure that samples collected are suitable for DNA analysis, obtain the fundamental information required to develop a scientifically rigorous database on the biodiversity in this potential polymetallic nodule mining area, including information on the level of species overlap and rates of gene flow, and to promote the standardization required for future decisions in respect of the protection and preservation of the marine environment from the mining of deep seabed polymetallic nodule deposits.

#### *D. Information and data relating to the international seabed area*

46. Data and information on marine mineral resources are dispersed within various organizations, companies and entities worldwide. They are held in various formats, having been collected according to different standards, and are usually not readily accessible to potential users. To address this situation, the secretariat in 2000 began to establish a database, known as the Central Data Repository (CDR). The objective of the CDR is to collect and centralize all public and private data and information on marine mineral resources and their associated biodiversity. This database is to be available to all interested parties through the Internet. It is to contain summaries of resource potential for areas where data are sufficient. Work to establish the CDR has advanced in relation to geologic data on polymetallic nodules, polymetallic sulphides and ferromanganese crusts in the Area. The Authority has also created uniform data formats for data entry.

47. The first step in the process of establishing the CDR was to determine the format and availability of relevant data within 18 institutions worldwide. The next step was to decide on a common format for data on the three types of mineral deposits, the database structure and appropriate web interfaces. In 2001, the secretariat started the collection of data and information related to polymetallic nodules and ferromanganese crusts. Late in 2002, the secretariat acquired from the Geological Survey of Canada a validated set of data on the worldwide distribution of seafloor polymetallic sulphides, including geochemical analyses for 2,640 samples of seafloor polymetallic sulphides and related hydrothermal precipitates from 69 different sites worldwide. Those data were integrated into the CDR during the first quarter of 2003. As at May 2003, data and information on marine mineral resources have been obtained from 3 of the 18 institutions identified, including, in addition to the Geological Survey of Canada, the United States Geological Survey and the National Oceanic and Atmospheric Administration. During 2004 and 2005, it is intended to complete the data acquisition process. During this time, the secretariat will also continue to develop visual data analysis tools for use over the Internet.

48. The CDR may be accessed via links from the Authority's web site or directly at [www.cdr.isa.org.jm](http://www.cdr.isa.org.jm). The CDR is divided into three main databases: polymetallic nodule samples data, cobalt-bearing ferromanganese crust samples data, and a seabed patents database. A background summary and related documentation associated with each resource type is available online, providing an understanding of the overall analysis performed by the various expert consultants involved in the project.

49. The CDR is also to be developed to facilitate the dissemination of the results of marine scientific research relevant to the future commercialization of polymetallic nodule deposits, cobalt-rich ferromanganese crusts and gas hydrates. 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 marine mineral resources, including:

- (a) Types of deposits, their location, the metal content of the minerals that they contain and baseline environmental conditions (including associated biota);
- (b) A bibliographic database and recommendations for general reading;
- (c) A synthesis of research carried out on each of the components;
- (d) Lists of related projects and associated researchers;
- (e) Links to other institutions working on related subjects.

While it is not the responsibility of the Authority to develop deep sea oceanography, the creation of web sites and databases could be a unique source of information on the abyssal environment representing a giant leap forward in understanding deep-sea processes. It would also lead to greater collaboration between contractors and scientists, as well as within the scientific community, to the benefit of mankind.

50. As another product for the dissemination of information, the Authority plans to assemble a digital atlas containing maps and charts at different scales, which will include the following global and regional information relating to the Area:

- (a) Natural and political boundaries of and inside the Area, including the location of known exclusive economic zone and continental shelf boundaries;
- (b) Geological features and provinces, including major structures;
- (c) Bathymetry and general seafloor relief;
- (d) Location of all known mineral resources, including placers, phosphorites, evaporates, polymetallic sulphides, manganese nodules, hydrocarbons and methane hydrate deposits.

51. For each of the above-mentioned mineral resources, three categories of information will be mapped. The first concerns the locations of known and proven deposits, the second is related to the location of areas of potential occurrence of minerals and the third is connected to the areas where analysed samples are available in the public domain and easily accessible via the Internet. The aim of the project is to develop a web-accessible database containing all the available cartographic information with the appropriate geographical information system, which will be able to receive and display information in different formats.

52. The digital atlas is planned to be carried out in cooperation with the International Hydrographic Organization and the United Nations Cartographic Section. The first phase of elaboration of the project is scheduled to start in the second half of 2003 and continue through 2004. It will include the collection of the necessary information and design of the format for the atlas.

#### *E . Resource assessment and geologic model for the Clarion-Clipperton Fracture Zone*

53. One of the most important functions of the Authority in the period prior to the approval of the first plan of work for exploitation is the assessment of available data relating to prospecting and exploration. In this regard, the Authority is specifically required to carry out an evaluation of available data and information relating to the areas reserved for eventual use by the Authority. Initial work on resource assessment, including a review and critical evaluation of available data, began in 1998, as a result of which the Authority was able to identify a number of discrepancies and missing elements in those data, most of which was provided by the pioneer investors upon registration. To carry this

work further, the Authority, in January 2003, convened an expert group of scientists to draw up a preliminary proposal for the establishment of a geological model for the CCZ.

54. A strategy and work programme for the model was further developed during a workshop held from 13 to 20 May 2003 in Nadi, Fiji, organized by the Authority in collaboration with the South Pacific Applied Geosciences Commission. The Fiji workshop brought together more than 35 internationally renowned experts from around the world to review the outcomes of the meeting of scientists and to establish a strategy for the development, over a four-year period, of a geological model. The full proceedings and recommendations of the workshop will be published in due course. A summary of the workshop outcomes is available on the Authority's web site.

55. The objective of the programme, as recommended by the Fiji workshop, is to establish a geological model for the CCZ that can be used for quantitative purposes (resource assessments) and a predictive model that enables the Authority to identify poorly sampled seabed areas with the CCZ that could contain high-grade and high-abundance nodule deposits. The predictive aspect of the model would be developed using apparent relationships that have been observed between parameters such as the sediment-water interface, biological productivity and the carbonate compensation depth with high-grade, high-abundance nodule deposits. In parallel with the model, the workshop recommended the development of a prospector's guide, documenting the data contained in the model and including a narrative of the steps taken to validate proxy data. Such a guide would take advantage of the enormous experience of project participants and provide a framework for the integration of qualitative, experience-based information in the model.

56. Among the other tangible benefits of the project for the Authority and its members are that the model would provide an authoritative summary of resource and indicator variables for relative evaluation of existing claims and guidance for selection of new claims. It would also provide a mechanism for improving resource assessment with new data acquisition and a key framework for delineating biological habitats. While primarily applicable to the CCZ, the lessons and techniques learned from the development of the model could also be applied to nodule formation elsewhere in the Pacific and in other oceans, in both international waters and in waters under the jurisdiction of coastal States.

57. The outcomes of the Fiji workshop will be presented to the Legal and Technical Commission during the ninth session. The secretariat will then develop an appropriate implementation strategy, including estimated budgetary requirements, and will start the identification, acquisition and processing of necessary data and information.

## **XI. FUTURE DIRECTIONS**

58. Prospects for the development of seabed mineral resources continue to be doubtful. At the same time, however, it is apparent that existing knowledge about the deep ocean environment, and especially the potential consequences of mining activity is highly uncertain. In these circumstances, the most constructive and useful work the Authority can do at the present time is to develop its capacity as a depository of available data and information about the mineral resources of the Area and to promote and encourage new research on those resources and on the deep ocean environment in general. This will assist the Authority in its efforts to administer the Area and its resources.

59. The main priority for the Authority in the immediate future is the development of a regulatory regime for polymetallic sulphides and cobalt-rich crusts. While discussions in the Legal and Technical Commission are ongoing, it is apparent from the discussions to date that a cautious approach to regulation is warranted. Until scientific knowledge improves, and especially knowledge of the potential environmental consequences of mining, there is little justification for the adoption of a comprehensive regulatory code. The objective should be to progressively develop a regulatory regime as prospecting and exploration activities take place and better knowledge of the resources and the environment in which they occur is gained. Strong emphasis should be placed on the need to gather environmental data and information according to standardized methodologies and formats, and on the analysis of such data.

60. Among other current issues that the Authority will need to consider are the future implementation of article 82, paragraph 4, of the Convention and the question of the protection of biodiversity in the Area.

61. Article 82, paragraph 4, of the Convention provides for a system of revenue-sharing with respect to the exploitation of the non-living resources of the continental shelf where the shelf extends beyond 200 nautical miles from the baseline. The article provides that coastal States are to make payments or contributions in kind in respect of the exploitation of such resources and sets out the modalities for such payments or contributions. Any such payments or contributions are to be made through the Authority and distributed to States parties to the Convention in accordance with the criteria set out in article 82, paragraph 4. Although, according to current knowledge, the offshore resources in potential continental shelf areas beyond 200 nautical miles are sub-marginal to para-marginal, technological improvements in recovery efficiency and greater access to deep-water areas are already increasing the range of economically recoverable resources and there is considerable potential for exploitation of these resources in the future. At least two States have issued exploration licences in such areas. The Authority will carry out the necessary studies and will prepare a technical report on the development of the deep seabed resource exploration and prospects for future exploitation on the continental shelf. The results are expected to provide more precise information on likely future activities on the basis of which the Authority can begin to address issues relating to the implementation of article 82, paragraph 4, of the Convention, including the development of equitable sharing criteria and modalities for the distribution of revenue.

62. The report of the Secretary-General to the eighth session briefly reviewed some recent international developments relating to the preservation and management of biodiversity in the Area, noting that, with respect to hydrothermal vents, this issue was a matter of direct concern of the Authority. Since then, as a result of a joint study prepared by the Division of Ocean Affairs and the Law of the Sea of the United Nations and the secretariat for the Convention on Biological Diversity,<sup>18</sup> the Authority was invited to cooperate with the Division and other relevant international organizations in a review of issues relating to the conservation and sustainable use of the genetic resources of the deep seabed beyond the limits of national jurisdiction with a view to making appropriate recommendations to the General Assembly in due course.

63. Important preliminary steps in such a review would be to identify and assess such genetic resources and then to identify potential threats. The most immediate current threat appears to be the work being carried out around active hydrothermal vents, which may include bioprospecting carried out as part of marine scientific research. Insofar as such activities are concerned, it is likely that any regulatory regime developed by the Authority for mineral resources such as polymetallic sulphides would contain measures aimed at protecting biodiversity and the marine environment in general from harmful effects. It is expected that the results of the Authority's participation in the Kaplan project (see para. 41 above) would be particularly important in guiding the Authority in the establishment of the necessary measures. The Authority would also be able to obtain valuable practical guidance from ongoing international initiatives such as the draft code of conduct for sustainable use of hydrothermal vent sites under development by InterRidge<sup>19</sup> and the voluntary Code for Environmental Management of Marine Mining adopted by the International Marine Minerals Society. Indeed, most of the scientists currently engaged in research in this area have also participated in the Authority's workshops. The Authority will not only benefit from close collaboration with those who are already conducting scientific research on hydrothermal vents, but also has the potential to provide a central clearing house for exchange of information about research activities on hydrothermal vent sites and at the same time a forum for the discussion and development of principles for the better implementation of the existing legal regime for marine scientific research in the Area and the management of biodiversity in the Area.

64. As noted in the Secretary-General's report to the eighth session, one of the key practical questions that arises in the context of research on the genetic resources of the deep ocean is how to ensure the fair and equitable distribution of the benefits from marine scientific research relating to such resources without creating unreasonable obstacles to activities such as, for example, commercial biotechnological development and without limiting unreasonably commercial incentives, such as intellectual property rights, for work undertaken on the genetic resources of the Area. In this regard,

the practicality of the situation is such that it is hard, if not impossible, to distinguish between scientific exploration and commercial research. Deep ocean scientific research is expensive. It also relies on advanced technology both for the recovery of samples and their analysis. Few States are in a position to carry out such work. Any scientific data in the public domain could potentially be used for commercial gain. The essential issue would appear to be to develop a system of effective monitoring and enforcement, including, for example, basic protocols on how samples are initially taken, similar to those used for other biological research. Such procedures and practices, if applied, would ensure that the impact of bioprospecting on the marine environment would be no different from that of general scientific research. Marine scientific research will inevitably have some impact on the marine environment and it makes no difference to the environment whether the ultimate destination for samples taken is a bioprospecting company or a scientific research institute. While it is possible to attempt to reduce the impact, it is impossible to measure the impact scientific research has on the marine environment, as to do so would itself require scientific research.

## XII. CONCLUSION

65. Nine years after the establishment of the Authority, it is apparent that the work programme of the Authority has become substantially scientific and technical in nature. One consequence of this will be the need to consider how best to utilize the available financial and human resources to meet the demands of the changing work programme. To facilitate this, the Secretary-General has begun to develop a comprehensive three-year work plan for the secretariat, which would also incorporate a review of existing staff positions and job descriptions as well as details of the budgetary implications of planned programmes. The objective would be to present the work plan to the tenth session of the Authority for its consideration.

66. An essential element of the work plan would be to strengthen the technical expertise of the secretariat. In this regard, technical staff will be provided with training in geographic information systems, and web and geostatistical software applications. This training will include short visits and exchanges with staff from related technical and scientific organizations that undertake similar activities. The technical expertise of the secretariat will also be promoted by participation of technical staff in international meetings, conferences and workshops relevant to the technical activities of the Authority. The objective of these activities would be to ensure that the secretariat consists of the scientific and technical professionals qualified to the highest standards.

67. At the same time, the Secretary-General will keep under review the pattern of meetings of the Authority to ensure that it meets the requirements of the various organs and bodies involved and to see whether it represents the most efficient mechanism for carrying out the necessary technical work. At the eighth session, following a discussion on the need to secure broad participation in meetings of the Assembly, the Secretary-General was requested to organize the meetings of the various organs of the Authority in the most efficient manner according to the proposed work plan for each session and taking into account the need for flexibility and the existing organic links between the various organs and bodies of the Authority. Those considerations were taken into account in planning the meetings for the present session, but need to be kept under review in the light of the continuing difficulties encountered in securing the required quorum of member States for meetings of the Assembly in Kingston.

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### Notes

- <sup>1</sup> A detailed account of the issues relating to the supplementary agreement was contained in the report of the Secretary-General for 2002, ISBA/8/A/5 and Add.1.
- <sup>2</sup> ISBA/6/C/7.
- <sup>3</sup> ISBA/8/C/4.
- <sup>4</sup> ISBA/8/A/11.
- <sup>5</sup> *Legislative history of the "Enterprise" under the United Nations Convention on the Law of the Sea and Agreement relating to Part XI of the Convention*, International Seabed Authority, 2002.
- <sup>6</sup> ISA Technical Study No. 1, *Global Non-Living Resources on the Extended Continental Shelf: Prospects at the Year 2000*, International Seabed Authority, 2001.

- <sup>7</sup> ISA Technical Study No. 2, *Polymetallic Massive Sulphides and Cobalt-rich Ferromanganese Crusts: Status and Prospects*, International Seabed Authority, 2002.
- <sup>8</sup> The contract with India was signed in March 2002.
- <sup>9</sup> ISBA/6/A/18, annex (annex 4, sect. 10).
- <sup>10</sup> ISBA/7/LTC/1/Rev.1.
- <sup>11</sup> ISBA/8/LTC/2.
- <sup>12</sup> *Ibid.*, annex.
- <sup>13</sup> See ISBA/4/A/18, para. 14.
- <sup>14</sup> ISBA/7/C/2.
- <sup>15</sup> The papers presented during the seminar have been published as ISA Technical Study No. 2 (see note 7 above). A summary of the papers was issued under symbol ISBA/8/A/1.
- <sup>16</sup> Convention, article 143, para. 1.
- <sup>17</sup> The J. M. Kaplan Fund is a family foundation based in New York that supports, *inter alia*, worldwide projects to protect the global commons.
- <sup>18</sup> The study was presented to and discussed by the eighth meeting of the Convention on Biological Diversity Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA-8) at Montreal from 10 to 14 March 2003 as UNEP/CBD/SBSTTA/8/9/Add.3/Rev.1 and UNEP/CBD/SBSTTA/8/INF.3/Rev.1.
- <sup>19</sup> InterRidge is an international scientific initiative concerned with facilitating international and multidisciplinary research associated with mid-ocean ridges. Members include Canada, France, Germany, India, Italy, Japan, Norway, Portugal, the United Kingdom and the United States. See <http://triton.ori.u-tokyo.ac.jp/~intridge/>.

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## **ISBA/9/A/5\* - Report of the Finance Committee ISBA/9/C/5\***

Date: 4 August 2003

1. During the ninth session of the International Seabed Authority, the Finance Committee held five meetings, on 31 July and 1 and 2 August 2003. The Committee elected Hasjim Djalal (Indonesia) as its Chairman and noted with appreciation the work of Domenico Da Empoli, who had been the Chairman for the preceding four years.

### **I. AGENDA**

2. The Committee adopted the agenda, noting that under the item “Other matters” there would be discussion of the status of contributions, assessment of contributions for 2004 and a legal interpretation of financial regulations 3.6, 6.2 and 6.3.

### **II. AUDIT REPORT FOR 2002**

3. The Committee considered the report of KPMG Peat Marwick on the audit of the accounts of the Authority for the year 2002. The view was expressed that the reports, along with all the documents, should be made available to the members well in advance. The Committee once again urged the Secretariat to distribute a full set of meeting papers sufficiently in advance of the meeting, including presenting the audit management letter and the audit report together. The Secretary-General of the Authority noted the concerns of the members and assured them that efforts would be made to send the reports in advance as soon as the audit was completed. The Committee sought clarification of various matters in the report and requested that more details be provided with respect to the method of conduct of the audit. Clarification was provided by the Secretary-General of a number of specific items in the course of examination of the report. The Secretary-General was requested to provide clarification of the application of United Nations accounting standards as approved by the former Administrative Committee on Coordination and to provide the relevant documents.

### **III. APPOINTMENT OF AUDITORS**

4. The Committee considered the question of appointment of an auditor for 2003. One of the members felt that it would be preferable to have the audit of the Authority's accounts carried out by the United Nations Auditors. It was clarified that letters were sent to the Executive Secretary of the United Nations Board of Auditors, requesting a proposal for the audit of the Authority's accounts, followed by personal contact. It was noted that no member from the Board of Auditors was interested in accepting the task of auditing the Authority. The Committee then considered the bids from KPMG Peat Marwick, Deloitte and Touche and Pricewaterhouse Coopers to undertake the audit for the 2003 and 2004 period. After discussion about the merits of the three bids, including their experience in auditing international organizations, the necessity to make an appointment at the ninth session and the optimum period of appointment in relation to the requirements of the financial regulations, the Committee, while pursuing the request to the Board of Auditors, decided that Deloitte and Touche should be appointed for two years to audit the 2003 and 2004 accounts.

### **IV. SUPPLEMENTARY AGREEMENT**

5. The Committee noted with concern that the supplementary agreement between the International Seabed Authority and the Government of Jamaica has not yet been concluded. The Committee noted that the issues to be resolved specifically concerned the amount of maintenance costs, the amount payable for the use of the Conference Centre, and host country obligations to provide adequate security and insurance. The Committee reiterated that the host country and the Secretary-General should make serious efforts to conclude the matter as soon as possible, and in any event before the end of October 2003. The Committee requested its Chairman to facilitate further contact between the host country and the Secretary-General, if necessary.

### **V. TRUST FUND**

6. The Committee noted the establishment, on an interim basis, of a voluntary trust fund to defray the costs of travel expenses of members of the Legal and Technical Commission and the members of the Finance Committee from developing countries. While expressing its appreciation to the three donors, the Committee noted that the response from others had been rather slow. With respect to the issue of the modalities for funding the participation of members of the Legal and Technical Commission and the Committee from developing countries, after extensive discussion the Committee adopted the decision and recommendations contained in the annex to the present report. In accordance with that decision, the Committee agreed to revisit the matter at its next meeting.

### **VI. PENSION ENTITLEMENT OF THE SECRETARY-GENERAL OF THE AUTHORITY**

7. This item was included in the agenda at the request of a member of the Committee. The Committee had before it a document entitled, "Terms of service of the Secretary-General of the International Seabed Authority, including pension arrangements" (ISBA/9/FC/R.1). Since there was insufficient time to consider the matter in detail, the Committee deferred it for consideration at the next session of the Authority.

### **VII. OTHER MATTERS**

#### *A. Status of contributions*

8. The Committee noted the status of contributions to the administrative budget and expressed concern about the number of member States that had been in arrears for multiple years and the effect of that situation, including on any voting processes. The Committee recalled the provisions of financial regulation 6.8, by which the Secretary-General should submit a report on the matter to each regular session of the Assembly, the Council and the Committee, and report on the collection of contributions and advances to the Working Capital Fund.

### B. Assessment of contributions for 2004

9. With respect to the scale of assessed contributions for 2004, one member informed the Committee that, owing to a request by one member country, the scale of assessed contributions of the United Nations had been adjusted. It was suggested that the scale of assessed contributions of the Authority also be adjusted. The Committee noted that, at the eighth session of the Authority, the Assembly had adopted the scale of contributions for 2004 based on the scale of contributions to the regular budget of the United Nations for 2003. In the absence of any specific request from a member of the Authority, there was no reason to amend the scale at this stage. The matter would be considered further in connection with the scale of contributions for the next financial period of the Authority and in the light of interpretation of regulations 3.6, 6.2 and 6.3 of the Financial Regulations.

### C. Interpretation of Financial Regulations 3.6, 6.2 and 6.3

10. The secretariat was requested to prepare an explanatory note on the interpretation and application of these regulations to be taken up for discussion at the next meeting.

### D. New members

11. The Committee recommended that Albania, Kiribati, Qatar, Tuvalu and Armenia, which had become members of the Authority in 2003, contribute the amounts shown below towards the administrative budget of the Authority and the Working Capital Fund for 2003. Such contributions should be credited as miscellaneous income.

<i>States</i>	<i>Date of membership</i>	<i>United Nations contribution scale, 2003</i>	<i>Adjusted Authority scale</i>	<i>Contribution to General Admin. Fund for 2003 (United States dollars)</i>	<i>Contribution to Working Capital Fund for 2003 (United States dollars)</i>
Albania	23 July 2003	0.003	0.010	172	19
Kiribati	24 March 2003	0.001	0.010	301	33
Qatar	9 January 2003	0.034	0.050	1 464	161
Tuvalu	9 January 2003	0.001	0.010	379	42
Armenia	9 January 2003	0.002	0.010	379	42

12. The Committee recommended that the Council and Assembly of the International Seabed Authority again request members of the Authority to pay their assessed contributions in full and on time, and that they also urge members to consider contributing to the voluntary fund set up to assist the participation of members of the Legal and Technical Commission and the Committee from developing countries.

## ANNEX

*The Finance Committee,*

*Bearing in mind* that the Legal and Technical Commission and the Finance Committee discharge essential functions that are prerequisite for the decision-making of the International Seabed Authority, drawing upon the personal qualifications and expertise of their members,

*Mindful* of the need to enhance the participation of all members of the Commission and the Committee, without which the Authority would not be able to gather the necessary knowledge and experience in a balanced fashion,

*Adopts* the recommendations set out below.

1. The Finance Committee recommends the continuation of the voluntary trust fund. The purpose of the fund would be to defray the costs of participation of members of the Legal and Technical Commission and the Committee from developing countries.
2. The voluntary trust fund will be funded by voluntary contributions from members of the Authority and others.
3. The provisional terms and conditions for the use of the fund will be as follows:
  - (a) A formal request by the Government which nominated the member must be made to the Secretary-General of the Authority no later than three months in advance of the opening of the meeting, indicating why the costs of participation cannot be met by the Government concerned;
  - (b) 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;
  - (c) Where possible, priority should be given to members from least developed countries;
  - (d) As a general rule, airfare costs should be for economy class travel and DSA should only be provided for in exceptional cases;
  - (e) The Secretary-General should inform the Government concerned of the outcome of the request no later than two months in advance of the opening of the meeting.
4. To supplement the voluntary contributions, the Secretary-General, for the first year of operation of the voluntary trust fund, is authorized to advance, to the extent necessary, up to \$75,000 from such extraordinary sources of funding as may be under the custody of the Secretary-General and accrued to the Authority, on the understanding that that authorization is made on an exceptional, one-time basis and is without prejudice to any future recourse to the general administrative fund that may arise from the determination of definitive sources of financing requested in paragraph 6 below. The Secretary-General is requested to report to the Committee at its next meeting on the advances made in a consolidated manner for eventual appropriation.
5. The Secretary-General shall report to the Committee annually on the use and status of the fund. The Committee intends to review the use and status of the fund in the light of the Secretary-General's report.
6. The Committee recommends that the Assembly of the International Seabed Authority, at its tenth session, decide on a definitive source of financing for supplementing the voluntary funds for the participation of members of the Legal and Technical Commission and the Committee from developing countries, on the basis of the recommendation of the Committee and the Council at the next session of the Authority.
7. The Secretary-General should investigate and indicate to the Committee at the next session of the Authority the interest accruing from the various funds and resources of the Authority.
8. The Committee decides to define at its next meeting, on the basis of proposals to be submitted by the Secretary-General, the purpose and limit of a special account to which the resources were transferred from the special trust fund under the provision of paragraph 7 (a) of resolution II of the Final Act of the Third United Nations Conference on the Law of the Sea.

**ISBA/9/A/8 Statement made by the Japanese delegation to the Assembly at its ninth session.  
(Submitted by the delegation of Japan)**

Date: 7 August 2003

1. The Assembly has just endorsed the recommendations and decisions of the Finance Committee with regard to the modalities of funding the participation of members of the Legal and Technical Commission and the Finance Committee from developing countries.

2. Paragraph 4 of the decision of the Finance Committee reads as follows:

“To supplement the voluntary contributions, the Secretary-General, for the first year of operation of the voluntary trust fund, is authorized to advance, to the extent necessary, up to \$75,000 from such extraordinary sources of funding as may be under the custody of the Secretary-General and accrued to the Authority, on the understanding that that authorization is made on an exceptional, one-time basis and is without prejudice to any future recourse to the general administrative fund that may arise from the determination of definitive sources of financing requested in paragraph 6 below. The Secretary-General is requested to report to the Committee at its next meeting on the advances made in a consolidated manner for eventual appropriation.”

3. The Japanese delegation recommends the following:

“To accept this recommendation as a one-time operation only which will expire in 2004. Once the final source of financing is identified, the amount committed and advances shall be reimbursed to extraordinary sources of funding under the custody of the Secretary-General.”

4. As regards the determination of the definitive source of financing for supplementing the voluntary funds for the participation of the Legal and Technical Commission and the Finance Committee, the Japanese delegation finds it improper to use for such a purpose both the principal and the interest accruing from the special trust fund under the provisions of paragraph 7 (a) of resolution II of the Final Act of the Third United Nations Conference on the Law of the Sea, for the following reasons:

- (a) The trust fund, which was originally established in the United Nations in 1997 under the name “Special Account for the Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea for Pioneer Investors’ Application Fees”, was governed by the financial regulations and the administrative instructions of the United Nations Secretary-General on the establishment and management of trust funds (ST/SGB/188, 1 March 1982). The financial regulations and the instructions prohibit the use of the trust fund for other purposes than the purposes of the trust fund specified in the terms of reference of the fund (para. 46 of the instructions) and any balance of the fund shall be refunded to the original contributors.
- (b) Any income and accruing interest to the trust fund shall be credited to the fund (para. 38 of the administrative instructions).
- (c) The application fees will be utilized, as provided under article 13, paragraph 2 of annex III to the United Nations Convention on the Law of the Sea, to cover the cost incurred in relation to the registration of pioneer investors. Article 13 provides that “the amount of the fee shall be reviewed from time to time by the Council in order to ensure that it covers the administrative cost incurred. If such administrative cost incurred by the Authority in processing an application is less than the fixed amount, the Authority shall refund the difference to the applicant”.
- (d) We believe that the cost of travel expenses should be considered as expenses of the Authority and be defrayed from the savings of the regular administrative budget in view of the following considerations:

- (i) The Legal and Technical Commission and the Finance Committee discharge essential functions that are prerequisites for the decision-making of the International Seabed Authority, drawing upon the personal qualifications and expertise of their members;
- (ii) There is a need to enhance the participation of all members of the Commission and the Committee, without which the Authority would not be able to gather the necessary knowledge and experience in a balanced way.

5. Finally, the Japanese delegation firmly requests the Secretary-General to provide the Finance Committee with relevant documents and his proposals for the management of the special trust fund under the provisions of paragraph 7 (a) of resolution II of the Final Act of the Third United Nations Conference on the Law of the Sea, together with the applicable financial regulations and rules governing the management of the fund.

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## **ISBA/9/A/9 Statement of the President on the work of the Assembly at the ninth session**

Date: 7 August 2003

1. The ninth session of the Assembly of the International Seabed Authority was held at Kingston, Jamaica, from 28 July to 7 August 2003. At the opening of the session, the Assembly observed a moment of silence in honour of Judge Lennox Ballah, late judge of the International Tribunal for the Law of the Sea, and Mr. Yuji Kajitani, late member of the Legal and Technical Commission.

### **I. ADOPTION OF THE AGENDA**

2. At its 86th meeting, on 30 July 2003, the Assembly adopted its agenda for the ninth session (ISBA/9/A/2).

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

3. At the 86th meeting, on 30 July 2003, Mr. Josef Franzen (Slovakia) was elected President of the Assembly for 2003. Subsequently, following consultations in the regional groups, the representatives of Trinidad and Tobago (Latin American and Caribbean Group), Côte d'Ivoire (African Group), India (Asian Group) and Norway (Western European and Others 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, Mr. Helmut Tuerk (Austria) was elected by the Committee as its Chairman. The Committee met on 5 August 2003. The report of the Committee is contained in document ISBA/9/A/6. At the 89th meeting, on 7 August 2003, the Assembly adopted the report of the Credentials Committee. The decision of the Assembly relating to credentials is contained in document ISBA/9/A/7.

### **IV. ELECTION TO FILL A VACANCY ON THE FINANCE COMMITTEE**

5. At the 86th meeting, on 30 July 2003, Mr. Bernd Kreimer (Germany) and Mr. M. Gandhi (India) were elected to fill the vacancies on the Finance Committee left by the resignations of Mr. Peter Dollekes (Germany) and Mr. Narinder Singh (India) respectively.

## V. ANNUAL REPORT OF THE SECRETARY-GENERAL

6. At the 87th meeting, on 5 August 2003, the Secretary-General introduced his annual report to the Assembly (ISBA/9/A/3), as required by article 166, paragraph 4, of the United Nations Convention on the Law of the Sea. Following the presentation by the Secretary-General, statements were made by the delegations of Argentina, Australia, Austria, Brazil, China, Chile, Côte d'Ivoire, Fiji (on behalf of members of the Pacific Islands Forum), Germany, Indonesia, Jamaica, Kenya, Mexico, the Netherlands, New Zealand, Papua New Guinea, the Republic of Korea, the Russian Federation, the Sudan, Trinidad and Tobago, Uganda and the United Kingdom of Great Britain and Northern Ireland. The observer delegations of the United States of America and of the Division of Ocean Affairs and the Law of the Sea of the United Nations Secretariat also made a statement.

7. Members of the Assembly welcomed those States that had become parties to the 1982 Convention since the eighth session and also welcomed the fact that Cameroon, Cuba, Honduras, Kuwait and Mexico had become parties to the Agreement relating to the implementation of Part XI of the Convention. The Assembly was informed that Brazil was taking the necessary internal steps to become a party to the Agreement. The Assembly also welcomed the entry into force of the Protocol on Privileges and Immunities of the Authority.

8. The Assembly again expressed its concern about the long delay in completing a supplementary agreement concerning the headquarters of the Authority, and urged the Secretary-General and the Government of Jamaica to continue their efforts to conclude an agreement as soon as possible. The delegation of Jamaica restated its unwavering commitment to the fulfilment of all its obligations under the Headquarters Agreement and assured the Assembly that it would use its best efforts to continue to make progress towards resolving the outstanding issues with respect to the supplementary agreement.

9. The Assembly took note of the substantive work of the Authority outlined in the report of the Secretary-General. It was noted that the Authority's programme of scientific and technical workshops had continued to improve and had become an essential feature of the Authority's work. In terms of the future work programme of the Authority, the Assembly welcomed the proposal of the Secretary-General to submit to the Authority at its tenth session a comprehensive three-year plan, which would include proposals for streamlining and restructuring the secretariat in such a manner as to reflect the more technical emphasis in the work of the Authority. It was noted that a rigorous and comprehensive multi-year work programme would be of benefit to all members. It would also assist the Assembly in prioritizing activities, and provide a mechanism to measure performance against clearly stated objectives. The need to further streamline the meetings of the organs of the Authority as part of such a process, and in the interests of greater efficiency, was also emphasized. In particular, a request was made to organize the meetings of the Authority in 2004 in such a way as to ensure that the budget for the next financial period could be adopted by the Assembly with the quorum required by the Convention.

10. Several delegations welcomed the consideration by the Authority of issues relating 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. The Authority was encouraged to work closely with other relevant international organizations as well as with scientific institutions involved in such work. The Assembly also acknowledged the work of the Authority in promoting and encouraging marine scientific research in the Area through such projects as the establishment of the central data repository and the proposal to establish a geologic model for the nodule province of the Clarion-Clipperton Fracture Zone. With respect to the proposal to carry out a study of the implications of article 82, paragraph 4, of the Convention, some delegations expressed the view that the responsibilities of the Authority under article 82 were strictly limited to the functions set out in article 82, paragraph 4, and that any study by the secretariat should be focused accordingly.

11. 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 which 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 is 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 delegation of Chile also recalled the need to incorporate into the future work programme of the Authority the study relating to appropriate forms of guarantee against environmental emergencies referred to in document ISBA/6/C/12.

## **VI. REPORT AND RECOMMENDATIONS OF THE FINANCE COMMITTEE**

12. At its 87th meeting, on 5 August 2003, the Assembly considered the report and recommendations of the Finance Committee (ISBA/9/A/5-ISBA/9/C/5), noting that the recommendations had been considered and approved by the Council.

13. Following consideration of the report, the Assembly, on the recommendation of the Council, decided:

- (a) To take note of the report of the Finance Committee;
- (b) To appoint Deloitte Touche as auditor of the Authority for 2003 and 2004;
- (c) That, in respect of Albania, Armenia, Kiribati, Qatar and Tuvalu, 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 11 of the report of the Finance Committee (ISBA/9/A/5-ISBA/9/C/5).

14. With respect to the issue of the modalities for financing the participation of members of the Legal and Technical Commission and members of the Finance Committee from developing countries, the Assembly adopted the recommendations of the Finance Committee contained in the annex to the report of the Committee. The delegation of Japan made a statement concerning this issue (ISBA/9/A/8).

15. 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.

## **VII. NEXT MEETING OF THE ASSEMBLY**

16. The next meeting of the Assembly will be held in 2004 on dates to be fixed following consultation between the Secretary-General and the relevant departments of the United Nations Secretariat. In fixing the dates for the session, the Secretary-General was urged to use his best endeavours to find appropriate dates between April and the end of June 2004, taking into account the deadlines for submission of relevant documents, in order to facilitate the work of the various organs of the Authority.

17. It was noted that the Latin American and Caribbean Group would, in due course, nominate a candidate for the Presidency of the Assembly in 2004, and the African Group would nominate a candidate for the Presidency of the Council in 2004.

**ISBA/9/C/4      Report of the Chairman of the Legal and Technical Commission on the work of the Commission during the ninth session**

Date: 1 August 2003

1. The Legal and Technical Commission met from 21 July to 1 August 2003. Mr. Ferry Adamhar, Mr. Sami Ahmad Addam, Mr. Shahid Amjad, Mr. Miguel Dos Santos Alberto Chissano, Mr. Mohammed M. Gomaa and Mr. Jean-Pierre Lenoble were unable to attend the session. The Commission elected Mr. Albert Hoffmann (South Africa) as Chairman and Ms. Frida Maria Armas Pfirter (Argentina) as Vice-Chairman. During the ninth session, the Commission considered the following items:

- (a) The annual reports of contractors submitted pursuant to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area;<sup>1</sup>
- (b) The rules, regulations and procedures for prospecting and exploration for polymetallic sulphides and cobalt-rich crusts in the Area;
- (c) A report on the status of the central data repository;
- (d) The role of the International Seabed Authority in relation to the management of biodiversity in the Area;
- (e) The outcomes of the Authority's workshop on the establishment of a geologic model for the Clarion-Clipperton Fracture Zone.

**I. ANNUAL REPORT OF CONTRACTORS**

2. 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 report prepared by the secretariat on the status of annual reports received from contractors.<sup>2</sup> It was noted that the second set of annual reports by contractors were due to be received at the end of March 2003. As of 31 March 2003, annual reports had been received from Deep Ocean Resources Development, Ltd., Yuzhmorgeologiya and the Republic of Korea. Subsequently, annual reports were submitted by the Government of India, the Interoceanmetal Joint Organization, the China Ocean Mineral Resources Research Development Association (COMRA) and the French Institute of Research for the Exploitation of the Sea/French Association of Studies and Research of Nodules (IFREMER/AFERNOD).

3. In accordance with the methodology agreed upon during the eighth session, the Commission appointed a subcommittee to carry out a preliminary study of the annual reports and prepare a draft evaluation for consideration by the full Commission. The members of the subcommittee appointed for this purpose were Mr. Lindsay Parson, Ms. Frida Maria Armas Pfirter and Mr. Arne Bjørlykke.

4. In its evaluation of the reports for 2002,<sup>3</sup> 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 at the eighth session.<sup>4</sup> The Commission also noted that the process of appointing a subcommittee had facilitated a more expeditious consideration of the reports by the Commission as a whole. It was considered, however, that, in future, it would assist the subcommittee if the secretariat was able to conduct a preliminary analysis of some of the more technical data and information contained in the annual reports. It was also suggested that it might be useful, in some cases, to allow the contractors an opportunity to meet with the subcommittee. A suggestion was also made that it would be beneficial to the Authority to have an overall summary of the status of environmental monitoring and assessment being undertaken by contractors. Such a summary would be useful for a full understanding of the activities being undertaken by contractors. It was felt that the suggestion warranted further study by the secretariat and the Commission, but that the consent and involvement of contractors would also be essential.

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

5. In accordance with its programme of work agreed upon during the eighth session, the members of the Legal and Technical Commission convened informal working groups for detailed consideration of certain aspects of the rules, regulations and procedures for prospecting and exploration for polymetallic sulphides and cobalt-rich crusts in the Area. The coordinators of the informal working groups and the topics for discussions were as follows:

- (a) Considerations relating to the development of environmental rules, regulations and procedures relating to prospecting and exploration for polymetallic sulphides and cobalt-rich crusts (Mr. Helmut Beiersdorf, Mr. Samuel Sona Betah, Mr. Galo Carrera Hurtado, Mr. Walter De Sá Leitão, Mr. Albert Hoffmann, Mr. Giovanni Rosa, Mr. Alfred Simpson);
- (b) Size of exploration areas and a system whereby contractors might relinquish some of these areas to the Authority (Mr. Jung-Keuk Kang, Mr. Yoshiaki Igarashi, Mr. Lindsay Parson, Mr. M. Ravindran, Ms. Inge Zaamwani);
- (c) Form of the work plans that applicants would be required to submit, detailing their intentions (Ms. Frida Maria Armas Pfirter, Mr. Albert Hoffmann);
- (d) Type of arrangements between contractors and the Authority: whether a parallel system in which areas would be split between the two joint ventures or some other formula (Ms. Frida Maria Armas Pfirter, Mr. Arne Bjørlykke, Mr. Baïdy Diène, Mr. Yuwei Li, Ms. Inge Zaamwani).

6. To facilitate discussions, the working groups were provided by the secretariat with relevant background documentation. The working groups also took into account the model clauses prepared by the secretariat and contained in document ISBA/7/C/2, annex.

7. The working group on environmental issues produced a preliminary draft of regulations relating to the protection and preservation of the marine environment during prospecting and exploration. The working group pointed out that, in developing environmental regulations relating to nodule exploration, the Commission had been dealing with a “post facto” situation. This was not the case with respect to the crusts and sulphides and, given the lack of scientific information on these deposits, the Commission had some scope for reviewing the obligations to be placed on contractors in relation to the protection and preservation of the marine environment. The group also considered that it was appropriate in this context to reflect in the draft regulations the developments in international environmental law achieved since the adoption of the Convention in 1982.

8. The working group on the size of areas for exploration considered the factors that would need to be taken into account during the process of determining size of exploration areas for mining ferro-manganese crusts and polymetallic sulphides. It was recognized that, while very different in nature from nodule deposits, each of these deposits was of a different character from the others, and would require special and separate consideration. The group considered that the elements to be taken into account included the size and maximum number of blocks to be available per contractor, the spatial definition of blocks (on a grid system or not, by geographical coordinates or distance), the spatial organization (contiguous or not), the geometry/dimensions of blocks (length-to-width aspect ratio), the selection process (from predefined grid, or self-selected), relinquishment procedures, timescale, encouragement factors for the contractors and economics of the number of mining sites necessary to sustain contractor operations. The working group was of the view that the size of exploration areas and the relinquishment period must be flexible enough to motivate contractors to carry out their activities in an effective manner. Although the group made some preliminary suggestions as to the methodology for defining exploration areas and the duration of exploration contracts, it was considered that the matter would require further detailed consideration.

9. The working group on the form of work plans considered that the regulatory regime for exploration for polymetallic sulphides and cobalt-rich crusts should be as close as possible to that for polymetallic nodules. In this regard, the working group proposed that the basic procedures for the submission, and approval of applications, and most of the standard clauses of the exploration contracts would remain the same as in the Regulations.

10. Nevertheless, it was noted that a number of adjustments would be required in order to reflect the different nature and distribution of the resources in question and the different political and economic considerations that applied. The most significant differences in the new regime would relate to prospecting, the size of the area to be allocated to the contractor for exploration, the application of the site-banking system and the procedure for dealing with overlapping claims. The group further considered that it would be practical and more manageable to have one form of contract for both resources and that only one set of regulations need be elaborated to cover both polymetallic sulphides and cobalt-rich crusts. However, the group was mindful that the final form of the work plans would be informed by what will be finally decided with regard to the outcome of the discussions in the other working groups and the proposals that they may suggest.

11. The working group on the arrangements needed to give effect to the parallel system noted that its mandate was to consider the type of arrangements between contractors and the Authority, specifically whether the parallel system as applied for polymetallic nodules through site-banking should be applied for polymetallic sulphides and cobalt-rich crusts. The group was of the view that site-banking would be difficult to apply to polymetallic sulphides and cobalt-rich crusts. Therefore, other alternatives suitable for reflecting the spirit of the parallel system as referred to in the Convention were looked at, in recognition of the fact that both these resources were the common heritage of mankind. The Commission considered, however, that the option of contributing a reserved area should remain, in the event that it could be useful in the future.

12. The group suggested that the applicant could propose one of three options to the Authority, including the option to contribute a reserved area, a joint venture system involving a contract between the Enterprise and the contractor whereby the Enterprise would be offered up to 50 per cent of the equity participation, such participation being a carried interest, a free carried interest or a combination of both, or a production-sharing contract whereby the contractor would recover its cost of production each year and profit-sharing would be carried out on a 50-50 basis. The working group offered for the consideration of the Commission a revision of the model clauses reflecting the tentative proposals of the group, recognizing that these proposals would need to be further developed.

13. The Commission decided to continue its work on the draft regulations at its next session. In this regard, the secretariat was asked to prepare a consolidated and comprehensive draft of the regulations, taking into account the discussions and proposals of the working groups, for consideration by the Commission. It was agreed that this draft should be made available well in advance of the session in order to allow for comment and for further technical input from members of the Commission. In addition, the secretariat was requested to provide the Commission with a paper highlighting the key outstanding issues with respect to the regulations in order to help focus the discussions during the tenth session. The Commission decided that it should start its work one week in advance of the main session of the Authority, since this working method had proved to be efficient and conducive to thorough discussion of the issues at a technical level.

### **III. REPORT ON THE STATUS OF THE CENTRAL DATA REPOSITORY**

14. The Commission received a report on the status of the central data repository on marine mineral resources established by the secretariat (ISBA/9/LTC/3) and was given a technical briefing on the secretariat's proposals for expanding the database. It was acknowledged that, as users of the resource, the members of the Commission could usefully contribute to the future elaboration of the database by making suggestions for improvements to the structure and usability of the database.

#### **IV. ROLE OF THE INTERNATIONAL SEABED AUTHORITY IN RELATION TO THE MANAGEMENT OF BIODIVERSITY IN THE AREA**

15. The Commission held a preliminary discussion, in open session, on issues relating to the biodiversity of the Area. It was noted that, in order to carry out its responsibilities in relation to the protection and preservation of the marine environment, it was essential for the Authority to improve its understanding of seabed and deep ocean environmental processes, including biodiversity. The Commission emphasized the need to work within its mandate under the 1982 Convention and the 1994 Agreement, but recognized the need to know and understand more about the biodiversity of the seabed and the deep ocean in order to enable it to draw up regulations to ensure the protection and preservation of the marine environment during prospecting and exploration for mineral resources. It was noted that biological processes are a known factor in mineralization, especially in hydrothermal vent ecosystems, but also in other seabed and deep ocean ecosystems. The role of the Authority in relation to the promotion and encouragement of marine scientific research in the Area was also noted.

16. It was recommended that the Authority should seek to broaden its cooperation with scientific institutions working in this area. Specifically, the importance of work being carried out by the Integrated Ocean Drilling Programme and InterRidge was mentioned. The Commission agreed to request Mr. Helmut Beiersdorf to draw up a proposal for a seminar on the subject of seabed and deep ocean biodiversity relevant to prospecting and exploration for mineral resources, involving the participation of the members of the Commission and leading experts in the field. Such a proposal, endorsed by the Commission, could be submitted to the Authority for consideration.

17. It was also agreed that, at its next session, Ms. Frida Maria Armas Pfirter would coordinate the preparation of a paper on the legal issues associated with biodiversity in the Area. This would ensure that the Commission remained within its mandate under the Convention and the Agreement. The Commission agreed to keep under review at its next session the idea of establishing a working group of the Commission to study the issue further.

#### **V. OUTCOMES OF THE WORKSHOP ON THE ESTABLISHMENT OF A GEOLOGIC MODEL FOR THE CLARION-CLIPPERTON FRACTURE ZONE**

18. The Commission received a report on the Authority's workshop on the establishment of a geologic model of the polymetallic nodules in the Clarion-Clipperton Fracture Zone. It was noted that the workshop had addressed a number of objectives, which were largely derived from the deliberations of a preparatory meeting of invited scientists at the Authority in January 2003. These objectives included the completion of a review of the theoretical aspects of nodule formation, an assessment of the geologic structure and evolution of the Clarion-Clipperton Fracture Zone with respect to nodule abundance and grade, a discussion of means to encourage marine scientific research in the initiative, an examination of the use of geostatistical methods in resource estimation, and an appraisal of the programme of work developed by the meeting of scientists.

19. The Commission held a discussion with the Secretary-General on the outcomes of the workshop. The Commission agreed that, in principle, it supported the proposal to establish a geologic model but would welcome the opportunity to comment on the detailed proposal in due course. The importance of close cooperation with contractors in the establishment of the model was emphasized and, in this regard, the Commission recommended that, at its next meeting, one day be set aside for a meeting with the contractors to discuss the proposed model. The Secretary-General agreed to take up this suggestion with the contractors.

20. The Commission concluded its work for the session on 1 August 2003. The members of the Commission expressed their appreciation to the secretariat for the facilities provided to them during the session and for the work that had gone into the compilation of background documentation for the session. The Commission also acknowledged the contribution by the members of the secretariat who had contributed fully to the informal discussions on the draft regulations.

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*Notes*

<sup>1</sup> ISBA/6/A/18, annex.

<sup>2</sup> ISBA/9/LTC/4 and Add.1.

<sup>3</sup> ISBA/9/LTC/2.

<sup>4</sup> ISBA/8/LTC/2, annex.

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**ISBA/9/C/6\* Statement of the President on the work of the Council at the ninth session**

Date: 7 August 2003

1. The ninth session of the International Seabed Authority was held at Kingston, Jamaica, from 28 July to 8 August 2003.

**I. ADOPTION OF THE AGENDA**

2. At its 86th meeting, on 30 July 2003, the Council adopted the agenda for the ninth session (ISBA/9/C/2).

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

3. At the 87th meeting, on 4 August 2003, Domenico da Empoli (Italy) was elected President of the Council for 2003. Subsequently, following consultations in the regional groups, the representatives of Saudi Arabia (Asian Group), Sudan (African Group), Trinidad and Tobago (Latin American and Caribbean 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 87th meeting, on 4 August 2003, Yoshiaki Igarashi (Japan) was elected to fill the vacancy on the Legal and Technical Commission caused by the death of Yuji Kajitani (Japan).

**IV. REPORT OF THE LEGAL AND TECHNICAL COMMISSION**

5. At its 87th meeting, on 4 August 2003, the Council received the report of the chairman of the Legal and Technical Commission on the work of the Commission during the ninth session (ISBA/9/C/4). The Council noted the contents of the report as well as the evaluation of the annual reports of contractors carried out by the Legal and Technical Commission (ISBA/9/LTC/2). While note was taken of the suggestion by the Commission that an opportunity might be given for contractors to meet with the Commission in order to discuss or clarify any issues arising from the annual reports, it was also noted that the annual reports of contractors were to be submitted in accordance with the provisions of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area and the terms of the standard clauses of contracts for exploration.

6. The Council took note of the outcome of the Commission's discussion, in open session, of issues relating to biodiversity in the Area. Several members of the Council welcomed the Commission's suggestion to develop a proposal for a seminar on the subject of seabed and deep ocean biodiversity relevant to prospecting and exploration for mineral resources, noting that it would present a valuable opportunity for closer cooperation between relevant organizations working in the field, including scientific institutions. The Council emphasized that it was ultimately the responsibility of the Council to determine the mandate of the Authority and the Commission with respect to issues relating to biodiversity and that, accordingly, it was anticipated that the outcomes of any discussions in the Commission should be presented to the Council in due course.

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

7. The Council noted the progress that had been made with respect to the formulation of draft regulations by the Legal and Technical Commission during the ninth session and expressed appreciation for the informative report that had been provided by the Chairman of the Commission on the work that had been achieved (ISBA/9/C/4). Clarification was sought on several aspects of the Commission's work. Several members of the Council spoke in support of the working methods adopted by the Commission with respect to the formulation of new draft regulations. At the same time, the Council recalled that a request to establish regulations for the resources in question had been made in accordance with the provisions of the Convention and the Agreement and that every effort should be made to formulate and consider draft regulations in a timely manner, taking into account the need to ensure that the draft is technically sound and that the Commission is given enough time to consider fully the difficult scientific issues involved. The Council decided to keep the matter under consideration at its next session, in parallel with the ongoing formulation of draft regulations by the Commission.

## **VI. REPORT AND RECOMMENDATIONS OF THE FINANCE COMMITTEE**

8. At its 88th meeting, on 4 August 2003, the Council received the report and recommendations of the Finance Committee (ISBA/9/A/5-ISBA/9/C/5). The Council took note of the report.

9. With respect to the appointment of an auditor, the Council, in accordance with the recommendation of the Finance Committee, decided to recommend to the Assembly to appoint Deloitte and Touche as auditor of the Authority for the period 2003 and 2004.

10. With respect to the issue of the modalities for financing the participation of members of the Legal and Technical Commission and members of the Finance Committee from developing countries, the Council decided to approve and recommend to the Assembly the recommendations of the Finance Committee relating to the voluntary trust fund as contained in the annex to the report of the Committee. To supplement the voluntary contributions, the Secretary-General, for the first year of operation of the voluntary trust fund, was authorized to advance, to the extent necessary, up to \$75,000 from such extraordinary sources of funding as may be under the custody of the Secretary-General and accrued to the Authority.

11. In discussing the recommendations, some members of the Council expressed reservations with respect to the proposed criteria for access to the voluntary fund and noted that the solution proposed by the Finance Committee should be regarded as only a temporary solution. In approving the recommendations, the Council emphasized the need to revisit the issue in order to reach a sustainable conclusion at the next session.

12. The Council appealed to all members of the Authority, as well as others in a position to do so, to make contributions to the voluntary trust fund.

## **VII. NEXT MEETING OF THE COUNCIL**

13. The next meeting of the Council will be held in 2004 on dates to be fixed following consultations between the Secretary-General and the relevant departments of the United Nations.

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## CUMULATIVE INDEX TO THE MAIN DOCUMENTS OF THE ASSEMBLY AND THE COUNCIL FROM 1994 TO 2002

*Note:* This cumulative index contains a complete list of the main documents of the Assembly and Council from the first session (1994) to the eighth session (2002). 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 8, 43-53. Where applicable, the index below indicates the reference in the appropriate volume of the Selected Decisions.

### Citation (Selected Decisions)

#### FIRST AND SECOND SESSIONS (1994 – 1996)

##### *Assembly*

ISBA/A/1	Provisional agenda of the Assembly
ISBA/A/2	Draft Rules of Procedure of the Assembly of the International Seabed Authority
ISBA/A/3	Letter dated 6 February 1995 from the representative of Belgium to the United Nations addressed to the Secretariat of the United Nations
ISBA/A/4	Agenda of the Assembly
ISBA/A/5	Credentials of representatives to the second part of the first session of the Assembly
ISBA/A/6	Rules of Procedure of the Assembly of the International Seabed Authority
ISBA/A/7	Credentials of representatives to the third part of the first session of the Assembly
ISBA/A/8 and Add.1	Credentials of representatives to the second session of the Assembly
ISBA/A/9 and Corr.1	Proposed budget of the International Seabed Authority
ISBA/A/10 and Corr.1	Functions of the International Seabed Authority in the first year, including matters pending from the work of the Preparatory Commission

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ISBA/A/11	Finance Committee – Candidates for membership in the Committee	
ISBA/A/12	Proposed budget of the International Seabed Authority	
ISBA/A/13	Decision of the Assembly concerning the observer status of the International Seabed Authority at the United Nations	1/2/3, 26.
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ISBA/A/15	Decision of the Assembly relating to participation of the International Seabed Authority in the United Nations Joint Staff Pension Fund	1/2/3, 28-29.
ISBA/A/L.1/Rev.1	Statement of the President of the Assembly on the work of the Assembly during the second part of its first session	1/2/3, 3-7.
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ISBA/A/L.6	Statement of Ambassador Kenneth Rattray (Jamaica) Rapporteur-General of the Preparatory Commission, presenting the final report of the Preparatory Commission	
ISBA/A/L.7/Rev.1	Statement of the President on the work of the Assembly during the third part of its first session	1/2/3, 7-12.
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ISBA/A/L.10	Provisional membership	1/2/3, 25-26.
ISBA/A/L.11	Draft decision of the Assembly relating to participation in the United Nations Joint Staff Pension Fund	
ISBA/A/L.12	Draft decision of the Assembly concerning the observer status of the International Seabed Authority at the United Nations	
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ISBA/A/WP.2	Draft Rules of Procedure of the Assembly	
ISBA/A/WP.3	Rules of Procedure of the Assembly	
ISBA/A/WP.4	Rules of Procedure of the Assembly (Proposal submitted by the Delegation of New Zealand)	

**Citation  
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#### **FOURTH SESSION (1998)**

##### ***Assembly***

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		<b>Citation (Selected Decisions)</b>
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##### *Assembly*

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**SIXTH SESSION (2000)**

*Assembly*

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***Assembly***

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**Citation  
(Selected Decisions)**

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***Assembly***

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