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INTERNATIONAL SEABED AUTHORITY

Selected Decisions and Documents of the Sixteenth Session

(26 April – 7 May 2010)

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ISBA/16/A/2 Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea

Date: 8 March 2010

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. It provides the usual detailed account of the work of the Authority over the past year as well as an overview of the outcomes of the 2008-2010 programme of work. The proposed programme of work for 2011-2013 is set forth in parts XII to XVIII of the report.

2. The Authority is the organization through which States parties to the Convention, in accordance with Part XI of the Convention, organize and control activities in the Area, particularly with a view to administering the resources of the Area. This is to be done in accordance with the regime for deep seabed mining established in Part XI and other related provisions of the Convention and in 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 "1994 Agreement") adopted by the General Assembly of the United Nations under the terms of its resolution 48/263 of 28 July 1994. As provided by resolution 48/263 and the Agreement itself, the provisions of the Agreement and Part XI of the Convention are to be interpreted and applied together as a single instrument. In the event of any inconsistency between the Agreement and Part XI, the provisions of the Agreement prevail.

3. The Authority has a number of additional specific responsibilities under other provisions of the Convention, such as the responsibility to distribute to States parties to the Convention payments or contributions in kind derived from exploitation of the resources of the continental shelf beyond 200 nautical miles pursuant to article 82, paragraph 4, of the Convention, and the responsibility under articles 145 and 209 of the Convention to establish international rules, regulations and procedures to prevent, reduce and control pollution of the marine environment from activities in the Area, and to protect and conserve the natural resources of the Area and prevent damage to the flora and fauna (that is, the biodiversity) of the marine environment.

II. MEMBERSHIP OF THE AUTHORITY

4. In accordance with article 156, paragraph 2, of the Convention, all States parties to the Convention are ipso facto members of the Authority. By 28 February 2010, there were 160 members of the Authority (159 States and the European Union). On the same date, there were 138 parties to the 1994 Agreement. Since the last report of the Secretary-General (ISBA/15/A/2), Switzerland (1 May 2009), the Dominican Republic (10 July 2009) and Chad (14 August 2009) have become parties to the Convention and the Agreement.

5. There are still 22 members of the Authority that became parties to the Convention prior to the adoption of the 1994 Agreement but have not yet become parties to that Agreement, namely: Angola, Antigua and Barbuda, Bahrain, Bosnia and Herzegovina, Comoros, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Gambia, Ghana, Guinea-Bissau, Iraq, Mali, Marshall Islands, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Somalia, Sudan and Yemen. Although members of the Authority which are not parties to the 1994 Agreement necessarily participate in the work of the Authority under arrangements based on that Agreement, becoming a party to the Agreement would remove an incongruity that currently exists for those States. For this reason, each year since 1998, at the request of the Assembly, the Secretary-General has circulated a letter to all members in this position, urging them to consider becoming parties to the 1994 Agreement. In the last such letter, sent on 12 January 2010, attention was drawn to the relevant paragraphs of the report of the Secretary-General for 2009 (ISBA/15/A/2) and to operative paragraph 3 of General Assembly resolution 64/71, calling upon

all States to become parties to both the Convention and the Agreement in order to achieve the goal of universal participation in the two instruments. The Secretary-General encourages all those members of the Authority that are not yet parties to the 1994 Agreement to become parties at the earliest possible opportunity.

III. PERMANENT MISSIONS TO THE AUTHORITY

6. As at 28 February 2010, the following 20 States and the European Union maintained permanent missions to the Authority: Argentina, Belgium, Brazil, Cameroon, Chile, China, Cuba, France, Gabon, Germany, Haiti, Italy, Jamaica, Mexico, Nigeria, Republic of Korea, Saint Kitts and Nevis, South Africa, Spain and Trinidad and Tobago.

IV. PREVIOUS SESSION OF THE AUTHORITY

7. The fifteenth session of the Authority was held in Kingston from 25 May to 5 June 2009. Mario José Pino (Argentina) was elected President of the Assembly for the fifteenth session, and Mahmoud Samy (Egypt) was elected President of the Council. The work of the Assembly during the fifteenth session included a general debate on the annual report of the Secretary-General and the consideration of applications for observer status by the World Wildlife Fund and the Commonwealth Secretariat. The Council continued its consideration of the outstanding issues with respect to the draft regulations on prospecting and exploration for polymetallic sulphides in the Area (see para. 66 below).

V. PROTOCOL ON PRIVILEGES AND IMMUNITIES OF THE AUTHORITY

8. The Protocol on the Privileges and Immunities of the International Seabed Authority entered into force on 31 May 2003. The Protocol, among other things, provides essential protection to representatives of members of the Authority who attend meetings of the Authority or who travel to and from those meetings. It also accords to experts on missions for the Authority such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions and the time spent on journeys in connection with their missions.

9. As at 28 February 2010, the number of parties to the Protocol was 31, as follows: Argentina, Austria, Brazil, Bulgaria, Cameroon, Chile, Croatia, Cuba, Czech Republic, Denmark, Egypt, Estonia, Finland, Germany, India, Italy, Jamaica, Mauritius, Mozambique, Netherlands, Nigeria, Norway, Oman, Poland, Portugal, Slovakia, Slovenia, Spain, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and Uruguay.

10. It is a matter of some concern that there have been no new ratifications of or accessions to the Protocol since February 2009. The Secretary-General would like to draw the attention of members of the Authority to operative paragraph 37 of General Assembly resolution 64/71, in which the Assembly called upon States that had not done so to consider ratifying or acceding to the Protocol.

VI. RELATIONS WITH THE HOST COUNTRY

11. The refurbishment of the Jamaica Conference Centre, including the replacement of obsolete audio equipment and upgrading of sound and interpretation systems, was largely completed in time for the fifteenth session in 2009. The Secretary-General wishes to express his appreciation to the Government of Jamaica for its continued commitment to the future of the Jamaica Conference Centre.

12. With respect to the premises occupied by the secretariat as the permanent headquarters of the Authority, it is understood that the Government of Jamaica continues to promote the concept of an “International Seabed Authority House”, which would provide accommodation for all United Nations programmes and agencies based in Jamaica. At present, the only such agency located in the headquarters building is the United Nations Environment Programme (UNEP), which has occupied the third floor of the building for a considerable period. A perception of security problems has been one of the primary obstacles preventing the United Nations agencies in Jamaica from

taking up the unused space at the Authority's headquarters. In particular, they were concerned that the downtown Kingston area, including the Authority's headquarters and the Jamaica Conference Centre, had been designated as "Security Phase I" areas requiring enhanced security measures. This concern was alleviated, however, when in January 2009 the Department of Safety and Security of the United Nations Secretariat declared the whole of the island of Jamaica to be under Security Phase I, and thus subject to the same security measures as the downtown area.

13. In May 2009, the secretariat learned that the United Nations Educational, Scientific and Cultural Organization (UNESCO) had agreed to relocate its office in Jamaica to the headquarters building, but the move has yet to take place. It is considered that there would be considerable advantages in placing the secretariat of the Authority and the United Nations programmes and agencies in the same building. Such advantages would include potential cost savings for member States in terms of implementing the minimum operational security standards established periodically by the Department of Safety and Security, more effective contingency planning for natural disasters, and the possibility of enhancing staff morale through the provision of shared facilities.

VII. RELATIONS WITH THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

A. United Nations

14. The secretariat continued to maintain a good working relationship with the Department for General Assembly and Conference Management of the Secretariat. Under the Relationship Agreement between the United Nations and the International Seabed Authority, the Department provided conference services for every regular session of the Authority between 1996 and 2008. In 2009, the Department was regrettably unable to service the meeting of the Legal and Technical Commission, and alternative arrangements were made for interpretation to be provided by a firm based in Cuba. Since these arrangements were not only successful, but also resulted in considerable cost savings for the Authority, the same arrangements have been in place for the 2010 meeting of the Commission. At the same time, to avoid further problems in the future, the secretariat requested the United Nations as early as July 2008 to ensure that the Authority's needs be taken into account in planning the Calendar of United Nations Conferences and Meetings for 2010 and subsequent years. It is noted in this regard that bringing forward the annual session from August to May appears to have resulted in an improvement in the level of participation by member States.

15. The secretariat also maintains a cordial working relationship with the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat and participates actively in UN-Oceans and its relevant working groups such as the United Nations-Oceans Task Force on Biodiversity in Areas Beyond National Jurisdiction.

B. Other International Organisations

16. Both the Convention and the resolutions of the General Assembly on ocean affairs and the law of the sea emphasize the fact that activities in the oceans are interrelated and need to be considered as a whole. Better cooperation and coordination between international organizations with mandates over activities in the ocean is therefore essential, not only to ensure consistency of approach, but also to ensure comprehensive protection of the marine environment where necessary.

17. It is recalled that in 2008, the secretariat was contacted by the secretariat of the OSPAR Commission, a body established by the 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic ("the OSPAR Convention"),[1] with respect to a proposal submitted to the Commission for the establishment of a

[1] The parties to the OSPAR Commission are: Belgium, Denmark, Finland, France, Germany, Iceland, Ireland, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and the European Union.

marine protected area at the Charlie Gibbs Fracture Zone on the Mid-Atlantic Ridge. At their meeting held on 11 and 12 November 2008, the OSPAR heads of delegation acknowledged the mandate of the Authority as the competent organization to regulate deep seabed mining and welcomed a suggestion to develop a memorandum of understanding between the OSPAR Commission and the Authority in order to ensure appropriate coordination of measures between the two organizations. That proposal was further supported and welcomed by members of the Authority during the debate on the annual report of the Secretary-General at the fifteenth session.

18. Since the fifteenth session, the secretariat has discussed with the secretariat of the OSPAR Commission the content of a draft memorandum of understanding. A draft was circulated to OSPAR Contracting Parties in accordance with the procedures of the organization and was further considered at the meeting of the OSPAR Commission heads of delegation on 17 February 2010. Subject to editorial changes, OSPAR heads of delegation agreed that the proposed memorandum of understanding should be submitted to the Authority for approval at the sixteenth session. At the same time, the OSPAR Commission's request for observer status in the Assembly (ISBA/16/A/INF.2) has been included in the provisional agenda of the sixteenth session of the Assembly (ISBA/16/A/L.1/Rev.1).

19. In 2009, following the practice of arranging technical briefings for the representatives of members of the Authority present in Kingston on matters relevant to the work of the Council and the Assembly, the Council was given a technical briefing on the work of the International Cable Protection Committee by its chairman, Mr. Mick Green. The Committee is the global organization representing the telecommunications and cable-laying industry. It exists to promote the safeguarding of submarine cables against man-made and natural hazards and provides a forum for the exchange of technical and legal information pertaining to submarine cable protection methods and programmes, including exchanging information on the location of existing and proposed cables.

20. In discussions following the presentation, members of the Authority noted that while the laying of submarine cables is a freedom of the high seas, it was in the interest of both the Authority and the members of the International Cable Protection Committee to avoid potential conflicts between the laying of cables and activities in the Area. It was further noted that both organizations also had a strong interest in the protection of the marine environment from adverse impacts arising from their respective activities. It was therefore suggested that the Committee be invited to become an observer to the Assembly.

21. Following further discussions between the secretariat and the International Cable Protection Committee, the Secretary-General signed on 15 December 2009 a memorandum of understanding between the Authority and the Committee regarding the scope of cooperation between the two organizations. The memorandum was signed on behalf of the Committee on 25 February 2010. The memorandum, which confers reciprocal observer status to the two organizations, will be submitted to the Assembly for approval at the sixteenth session (see ISBA/16/A/INF.1, annex).

22. In September 2009, the Secretary-General and Legal Counsel of the Authority paid a courtesy visit to the International Tribunal of the Law of the Sea in Hamburg. The Secretary-General held informal consultations on the work of the Authority with the President of the Tribunal, Judge José Luis Jesus.

VIII. SECRETARIAT

23. Two new staff members joined the secretariat in 2009. Mr. James A. R. McFarlane (United States of America) was appointed as head of the Office of Resources and Environmental Monitoring and Mr. Frazer Henderson (United Kingdom of Great Britain and Northern Ireland) was appointed as Editor.

24. As a result of the decision by the General Assembly to abolish, as of 1 July 2009, the joint appeals boards and, with effect from 31 December 2009, the United Nations Administrative Tribunal and to implement a new system for the administration of justice in the United Nations (see resolution 63/253), it is necessary for the

Authority to make certain adjustments to its Staff Regulations and Rules. In particular, it is proposed to make amendments to the Staff Regulations of the Authority in order to recognize the competence of the newly established United Nations Appeals Tribunal to hear and pass judgment on applications filed by staff members of the Authority, and to reflect a number of other changes that have been made to the Staff Regulations of the United Nations since the Staff Regulations of the Authority were adopted in 2001. A note by the Secretary-General on the proposed changes has been prepared for consideration by the Council during the sixteenth session (ISBA/16/C/4).

IX. BUDGET AND FINANCE

A. Budget

25. The budget for the financial period 2009-2010 was approved by the Assembly at the fourteenth session in the amount of $12,516,500 (ISBA/14/A/8). That represented an increase of 6.2 per cent over the budget for the previous financial period. The proposed budget for the financial period 2011-2012 (ISBA/16/A/3-ISBA/16/C/2) will be presented to the Finance Committee for consideration at the sixteenth session.

B. Status of contributions

26. In accordance with the Convention and the 1994 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 is based on the scale used for the regular budget of the United Nations, adjusted for differences in membership, with a ceiling assessment rate of 22 per cent and a floor assessment rate of 0.01 per cent. As at 1 March 2010, 52.8 per cent of the value of contributions to the 2010 budget due from member States and the European Union had been received from 46 members of the Authority.

27. Contributions outstanding from member States for prior periods (1998-2009) totalled $340,751. Notices are regularly sent to member States reminding them of the arrears. In accordance with article 184 of the Convention and rule 80 of the rules of procedure of the Assembly, a member of the Authority that is in arrears in the payment of its financial contribution 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 1 March 2010, 46 members of the Authority were in arrears for a period of two years or more: Belarus, Belize, Benin, Bolivia, Burkina Faso, Cape Verde, Comoros, Cook Islands, Côte d'Ivoire, Cuba, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Fiji, Gambia, Grenada, Guinea, Guinea-Bissau, Honduras, Iraq, Lesotho, Madagascar, Maldives, Mali, Mauritania, Micronesia (Federated States of), Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Republic of Moldova, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Seychelles, Sierra Leone, Solomon Islands, Somalia, Sudan, Togo, Tonga, Vanuatu, Zambia and Zimbabwe.

28. Also as at 1 March 2010, the balance of the Working Capital Fund stood at $438,145, exceeding its approved ceiling of $438,000 by $145.

C. Voluntary trust fund

29. The Voluntary Trust Fund to enhance the participation of members of the Finance Committee and the Legal and Technical Commission from developing countries was established in 2002. Provisional terms and conditions for the use of the Fund were adopted by the Assembly, on the recommendation of the Finance Committee, in 2003 and amended in 2004 (see ISBA/9/A/9, para. 14; and ISBA/9/A/5-ISBA/9/C/5).

30. The Fund is made up of voluntary contributions from members of the Authority and others. Over the life of the Fund, contributions totalling $178,318 have been received into the Fund. The most recent contribution, in December 2009, was from China ($20,000). As at 1 March 2010, the balance of the Voluntary Trust Fund stood at $83,913, including accrued interest of $6,574. The total amount paid out of the Fund to date is $255,979.

X. ENDOWMENT FUND FOR MARINE SCIENTIFIC RESEARCH IN THE AREA

31. The International Seabed Authority Endowment Fund for Marine Scientific Research in the Area was established by the Assembly in resolution ISBA/12/A/11 of 16 August 2006. The Endowment Fund aims to promote and encourage the conduct of marine scientific research in the Area for the benefit of mankind as a whole, in particular by supporting the participation of qualified scientists and technical personnel from developing countries in marine scientific research programmes, including through training, technical assistance and scientific cooperation programmes.

32. In accordance with the resolution of the Assembly, the initial capital of the Endowment Fund ($2,631,803) was derived from application fees paid under resolution II of the Third United Nations Conference on the Law of the Sea by seven former registered pioneer investors that have since entered into contract with the Authority. Additional contributions to the Fund may be made by the Authority, members of the Authority, other States, relevant international organizations, academic, scientific and technical institutions, philanthropic organizations and private persons. Since its establishment, additional contributions to the Fund have been made by the Governments of Germany ($250,000), Mexico ($2,500), Norway ($250,000), Spain ($25,514) and the United Kingdom of Great Britain and Northern Ireland ($29,800). By December 2009, the capital of the Fund stood at $3,202,440, with accumulated interest of $360,136.

33. In 2007, the Assembly, on the recommendation of the Finance Committee, adopted detailed rules and procedures for the administration and utilization of the Endowment Fund (ISBA/13/A/6). These rules and procedures provide comprehensive guidance on making applications for assistance from the Fund, the information that must be submitted, the type of activities that are eligible for funding, and the dissemination and reporting of the outcomes of marine scientific research programmes and scientific cooperation programmes. Applications for assistance from the Fund may be made by any developing country or by any other country if the purpose of the grant is to benefit scientists from developing countries.

34. Pursuant to the agreed procedures, an advisory panel was appointed by the Secretary-General in March 2008 to evaluate applications for assistance from the Fund. The Panel is composed of permanent representatives to the Authority, representatives of educational institutions or international organizations and individuals closely associated with the work of the Authority. The members of the Panel were appointed with due regard to equitable geographic representation. The names of the persons appointed to the Advisory Panel are set forth in the annex to the present report.

35. The Endowment Fund is administered by the secretariat of the Authority, which is required to endeavour to make arrangements with universities, scientific institutions, contractors and other entities for opportunities for scientists from developing countries to participate in marine scientific research activities. Such arrangements may include the reduction or waiver of fees for training. The secretariat has carried out a number of activities designed to draw the attention of the international donor community to the opportunities offered by the Fund and to encourage additional contributions. These activities include issuing press releases and promotional materials, maintaining a specially designed page on the Authority's website at http://www.isa.org.jm/en/efund, and establishing a network of cooperating institutions that may be interested in offering places on courses or research opportunities. Members of the network to date include the National Oceanography Centre (United Kingdom); the National Institute of Ocean Technology (India); the French Research Institute for Exploitation of the Sea (IFREMER); the Federal Institute for Geosciences and Natural Resources (Germany); the National Institute of Oceanography (India); the Natural History Museum (United Kingdom); Duke University, North Carolina (United States of America); and the International Cooperation in Ridge-crest Studies (InterRidge), an international, non-profit organization promoting interdisciplinary studies of oceanic spreading centres.

36. To date, a total of $254,312 has been disbursed by the Endowment Fund through six awards for activities that promote capacity-building. A total of 16 scientists from developing countries have been recipients of financial

support, with the names and nationalities of a further seven yet to be finalized at the time of preparation of the present report. The recipients to date are from Argentina, Bangladesh, China, Egypt, Guyana, India, Indonesia, Mauritania, Nigeria, Papua New Guinea, the Philippines, Sri Lanka, Thailand and Viet Nam. Each of the recipients has been able to participate in international training programmes or in research projects, which would not have been possible without the assistance of the Fund.

37. The first award to be made from the Endowment Fund was a grant of $30,000 to InterRidge to contribute towards the funding of two marine science fellowships each year for the period 2009-2011. Under the programme, and in accordance with the terms of reference of the Endowment Fund, these fellowships are available only to graduate or postdoctoral students from developing countries. A further fellowship, fully funded by InterRidge, is available to a similar individual from any country. The fellowships can be used for any field of ridge-crest science. In particular, the awards are encouraged to be used for international cruise participation, international laboratory use, and for adding an international dimension to candidates' research work. For example, one fellowship was granted in 2009 to a candidate from India in order to analyse helium isotopes in water samples collected in a systematic survey of the Carlsberg Ridge in the Indian Ocean. Applications for the 2010 fellowships were opened to candidates in January 2010.

38. In March 2009, an award of €25,000 was made to the Rhodes Academy of Oceans Law and Policy to help fund a number of fellowships for students from developing countries and to expand the Academy's training programme to cover issues relating to deep seabed marine science. The Rhodes Academy was founded in 1995 and entails an intensive, three-week course of study, with lectures by leading jurists, practitioners and international law faculty from around the world. It is a cooperative undertaking sponsored jointly by the Center for Oceans Law and Policy (University of Virginia, Charlottesville, United States of America), the Aegean Institute of the Law of the Sea and Maritime Law (Rhodes, Greece), the Law of the Sea Institute of Iceland (Reykjavik), the Max Planck Institute for Comparative Public Law and International Law (Heidelberg, Germany), and the Netherlands Institute for the Law of the Sea (Utrecht, the Netherlands). More than 400 students from 96 different countries have graduated from the Academy since its establishment. A total of nine participants benefited from the support of the Endowment Fund in 2009, and they are now better equipped to build the capacity of their home countries in the areas of the law of the sea and marine science.

39. In 2009, the National Institute of Oceanography (NIO) in India was provided with assistance to train scientists from developing countries through the Technical Assistance Programme-Marine Scientific Research (TAP-MAR). This enabled three scientists from developing countries, Ms. Alejandra Mariana Rocha (Argentina), Mr. Olubunmi Nubi (Nigeria) and Mr. Niroshana Wickramaarachchi (Sri Lanka), to gain new skills and carry out individual, supervised research projects at the Institute. During the training programme, the participants were acquainted with topics related to the exploration of deep seabed minerals, resource evaluation, marine ecosystems and biodiversity-inclusive environmental impact assessment of offshore projects. They were also given hands-on experience with live projects in relevant areas and training in laboratory and field techniques through visits to sites of marine significance. It is hoped that as a result of this training, research programmes between the trainees, their institutions and NIO will be developed that enable additional and ongoing capacity-building.

40. A further award from the Endowment Fund is currently enabling a researcher from Papua New Guinea to perform research at Duke University in North Carolina, United States of America, to develop conservation strategies for sea floor massive sulphide ecosystems. The study will focus on the genetic diversity of selected marine invertebrate taxa from the Manus basin in the Bismarck Archipelago near Papua New Guinea, and will cover the population structure and classification of species. It is hoped that information generated by this study will help to develop knowledge and understanding of these ecosystems and increase the capacity of Papua New Guinea to employ appropriate marine conservation strategies.

41. The Advisory Panel has also recommended the award of financial support from the Fund for the participation of two Indian scientists in a multidisciplinary investigation aimed at expanding current knowledge of the geology of the Shag Rock Passage on the North Scotia Ridge. The programme of scientific research will create a network, across two continents, of cooperating scientists that share the same scientific goals. In addition, the

project will facilitate the transfer of geochemical analytical skills to scientists from a developing country. The linking of these scientists will build capacity by enabling them to share and develop the skills, knowledge and expertise they have gained within their chosen fields of marine scientific research, which they will be able to pass on to other scientists in their home country.

42. During 2010, the China Ocean Mineral Resources Research and Development Association (COMRA) will carry out an international cooperative study of the sea floor hydrothermal system in the Indian Ocean. The study will focus on the geology and geochemistry of the Southwest Indian Ridge. As part of this programme, the Endowment Fund will provide funding for the participation of two scientists from developing countries in the research cruise. A capacity-building workshop will also be held. It is expected that this collaboration will result in a future international cooperative project between COMRA and the Authority, which would involve a large component of capacity-building. At the time of preparation of the present report, member States of the Authority have been invited to nominate qualified scientists to participate in this programme.

43. The secretariat of the Authority will continue to take steps to generate interest in the Endowment Fund on the part of potential donors and institutional partners. In this regard, it is noted that in operative paragraph 11 of its resolution 64/71, the General Assembly called upon "States and international financial institutions, including through bilateral, regional and global cooperation programmes and technical partnerships, to continue to strengthen capacity-building activities, in particular in developing countries, in the field of marine scientific research by, inter alia, training personnel to develop and enhance relevant expertise, providing the necessary equipment, facilities and vessels and transferring environmentally sound technologies". The importance of capacity-building to facilitate the participation of developing countries in marine scientific research, particularly through the mechanism of the Endowment Fund, was also highlighted in the recommendations adopted by the Ad Hoc Open-ended Informal Working Group of the General Assembly to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, held in New York from 1 to 5 February 2010 (see A/65/68, annex I).

44. The Secretary-General wishes to encourage members of the Authority, other States, relevant international organizations, academic, scientific and technical institutions, philanthropic organizations, corporations and private persons to contribute to the Endowment Fund, which is one of the key mechanisms for enabling capacity-building in the field of marine scientific research in the deep ocean.

XI. LIBRARY, PUBLICATIONS AND WEBSITE

A. Satya N. Nandan Library

45. The Satya N. Nandan Library serves as the main information resource for the secretariat, and for member States and other individuals or institutions looking for specialist information on seabed resources and legal and political issues relating to the deep seabed. The Library manages the Authority's specialized collection of reference and research materials focusing on matters relating to the law of the sea, ocean affairs and deep seabed mining. It serves the needs of members of the Authority, permanent missions and researchers interested in information on the law of the sea and ocean affairs, as well as providing essential reference and research assistance to support the work of the staff of the secretariat. In addition, the Library is responsible for the archiving and distribution of the official documents of the Authority and assists with the publications programme.

46. The facilities available in the Satya N. Nandan Library include a reading room with access to the collection for reference purposes and computer terminals for email and Internet access. The specialized research capability of the existing collection continues to improve through an acquisitions programme that is aimed at building upon and strengthening the Library's comprehensive collection of reference materials. During the reporting period, 78 books and CD-ROMs and over 360 journal issues were acquired. A number of donations were received from institutions, libraries and individuals, including from the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, the International Tribunal for the Law of the Sea, UNESCO,

UNEP, the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations (FAO), the United States Institute of Peace, the Center for Oceans Law and Policy, University of Virginia, and the Ministry of Transport and Communication of Ukraine.

47. During the period under review, the Library continued to receive requests for copies of the publications and documents of the Authority. The Library also continued to respond to requests for information, and to offer guidance on sources of information on subject areas related to the activities of the Authority, the international law of the sea and deep seabed mining, from institutions, nongovernmental organizations, academics, government departments and the general public. Some of the areas for which requests were received included: general information on the current activities and the functions of the Authority; law of the sea conferences; rights to the Arctic; fishing and navigation in the north-west passage; sustainable mining of sea floor massive sulphide deposits; methane hydrates and the work of the Authority in this area; the establishment of the Enterprise; and general information on sea floor massive sulphide deposits. Most requests are received electronically. Requests came from individuals from a number of countries including Algeria, India and the United States of America, and from a variety of academic and research institutions including Queen's University, Canada; the German Institute for International and Security Affairs (Stiftung Wissenschaft und Politik); the Law of the Sea and Maritime Law Institute, University of Hamburg, Germany; the National Institute of Oceanography, India; Larsen & Toubro Limited, Marine Business, Heavy Engineering Division, India; the University of Tromsø library, Norway; the Commonwealth Secretariat; the Ministry of Transport and Communication of Ukraine; Associated Press, Boston, Massachusetts, United States of America; the University of Wyoming, United States of America; the UNDP Water Governance Programme for United Nations World Oceans Day 2009; and from Jamaica, the Caribbean Maritime Institute; the Attorney-General's Department; the National Environment and Planning Agency; the Ministry of Foreign Affairs and Foreign Trade; the University of Technology; and the Departments of Government, Language and Linguistics, and Geography and Geology of the University of the West Indies.

48. The Library also hosted three postgraduate students from the University of the West Indies, Department of Language and Linguistics, conducting research towards the development of multilingual terminology glossaries on select areas relating to the International Seabed Authority and the United Nations Convention on the Law of the Sea.

49. While significant progress has been made in archiving unique source material and in establishing a basic library catalogue that is accessible to all users, it is clear that more work is now needed to maximize the possibilities offered by electronic information technology. Over the period of the 2011-2013 work programme, the Library will move towards providing a fully electronic resource for staff and visitors to the Authority, including representatives to the annual sessions. This will require the establishment of a dedicated Intranet page that enables staff and visitors to access the library catalogue and the full range of online subscriptions maintained by the Library.

B. Publications

50. 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, inter alia, 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 secretariat also circulates a quarterly newsletter designed to keep member States and other stakeholders informed of new initiatives and current developments with respect to the Authority's programme of work. The newsletter is available via an electronic mailing list or may be downloaded from the Authority's website. So far, more than 150 individuals have subscribed to the mailing list.

51. The Authority also publishes the proceedings of its workshops and a range of specialized legal and technical reports. Publications issued during the period covered by the present report include the proceedings of the March 2006 international Workshop on Cobalt-rich Crusts and the Diversity of Distribution Patterns of

Seamount Fauna, the proceedings of the May 2003 Workshop on the Establishment of a Geological Model of Polymetallic Nodule Resources in the Clarion-Clipperton Fracture Zone (CCZ) of the Equatorial North Pacific Ocean, and ISA Technical Study No. 4, entitled "Issues associated with the implementation of article 82 of the United Nations Convention on the Law of the Sea". The Authority's website hosts a complete list of all current and forthcoming publications.

C. Website

52. The Authority's website contains essential information on the activities of 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 in the six official languages of the United Nations. Press releases are available in English and French. The Authority's workshop proceedings, technical reports and other publications are also published electronically in downloadable format. The website also provides users with access to specialized databases, such as the Central Data Repository, a bibliographical database and the library catalogue, as well as an Internet-based geographical information system that allows the interactive production of some maps.

53. One of the goals of the Authority is to develop educational resources and opportunities for students interested in the marine environment, marine mineral development, marine policy and law, science and technology. As part of the outreach programme, it is also proposed to set up a marine mineral museum at the Authority's headquarters. The museum exhibits would be housed on the ground and first floors of the headquarters building, using space that is presently unused. It is considered that such a resource would be of interest to the local community in Jamaica as well as representatives of member States attending meetings in Kingston. This activity would not be funded from the regular administrative budget; the secretariat will seek generous contributions from member States and contractors to establish the museum.

XII. OVERVIEW OF THE SUBSTANTIVE PROGRAMME OF WORK OF THE AUTHORITY FOR THE PERIOD 2008-2010 AND PROPOSED PROGRAMME OF WORK FOR THE PERIOD 2011-2013

54. It should be recalled that the substantive functions of the Authority derive exclusively from the Convention, particularly Part XI, and the 1994 Agreement. Pending the approval of the first plan of work for exploitation, the Authority is to concentrate on the 11 areas of work listed in paragraph 5 of section 1 of the annex to the 1994 Agreement. In view of the limited resources available to the Authority, the relative priority to be given to each of these areas of work is dependent on the pace of development of commercial interest in deep seabed mining.

55. The substantive programme of work of the Authority for the period 2008-2010 was presented to and approved by the Assembly at the thirteenth session in 2007 (see ISBA/13/A/2). The approved programme of work was based on the implementation of subparagraphs (c), (d), (f), (g), (h), (i) and (j) of paragraph 5 of section 1 of the annex to the 1994 Agreement, in particular the following main areas:

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

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

(c) 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 ferromanganese crusts, including standards for the protection and preservation of the marine environment during their development;

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

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

(f) Ongoing assessment of available data relating to prospecting and exploration for polymetallic nodules in the Clarion-Clipperton zone.

56. For the period 2011-2013, the work programme will continue to focus primarily on the scientific, technical, legal and policy work necessary to carry out the functions of the Authority under the Convention and the 1994 Agreement. In addition, the general and specific routine tasks described above in connection with the work of the secretariat will continue to be performed.

57. The following sections of the present report provide an indication of the main areas of work to be addressed during the period 2011-2013, as well as a summary of progress and developments in relation to the 2008-2010 work programme. Although many items are interrelated, for ease of reference the proposed work programme is organized thematically around the following major substantive work streams, reflecting the provisions of paragraph 5 of section 1 of the annex to the 1994 Agreement:

(a) Ongoing supervision of contracts for exploration and award of new contracts as necessary;

(b) Progressive development of the regulatory regime for activities in the Area;

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

(d) Collection and assessment of data from prospecting and exploration and analysis of the results;

(e) Promotion and encouragement of marine scientific research in the Area;

(f) Database development.

XIII. ONGOING SUPERVISION OF CONTRACTS FOR EXPLORATION AND AWARD OF NEW CONTRACTS AS NECESSARY

58. At the core of the Authority's functions as the organization through which States parties to the Convention administer the resources of the Area is the responsibility to approve and issue contracts to qualified entities wishing to explore for or exploit deep-sea mineral resources. The contractual nature of the relationship between the Authority and those wishing to conduct activities in the Area is fundamental to the legal regime established by Part XI of the Convention and the 1994 Agreement. Annex III to the Convention, which sets out the "Basic Conditions of Prospecting, Exploration and Exploitation", also forms an integral part of this legal regime, which is to be further elaborated in the rules, regulations and procedures adopted by the Authority.

59. Pursuant to section 1, paragraph 15, of the annex to the 1994 Agreement, as read with articles 153 and 162(2) (o) (ii) of the Convention, the Council may undertake the elaboration of such rules, regulations and procedures as may be necessary to facilitate the approval of plans of work for exploration or exploitation for seabed minerals any time it deems that such rules are required for the conduct of activities in the Area, or whenever it determines that commercial exploitation is imminent, or at the request of a State whose national intends to apply for approval of a plan of work for exploitation. To date, the Council has adopted Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (ISBA/6/A/18, annex) and, having been requested by a State to do so, is in the process of elaborating rules, regulations and procedures governing prospecting and exploration for polymetallic sulphides and cobalt-rich crusts in the Area. In addition to specifying the process

through which contracts may be applied for and granted, these rules, regulations and procedures set out the standard terms and conditions, applicable to all entities, of contracts with the Authority.

A. Status of contracts for exploration

60. There are at present eight contractors for exploration for polymetallic nodules in the Area. These are: Yuzhmorgeologiya (Russian Federation); Interoceanmetal Joint Organization (IOM) (Bulgaria, Cuba, Czech Republic, Poland, Russian Federation and Slovakia); the Government of the Republic of Korea; China Ocean Mineral Resources Research and Development Association (COMRA) (China); Deep Ocean Resources Development Ltd. (DORD) (Japan); IFREMER (France); the Government of India; and the Federal Institute for Geosciences and Natural Resources of Germany (BGR). The first six contracts were signed in 2001; the contract with the Government of India was signed in 2002 and the contract with BGR was signed in 2006.

61. The rules, regulations and procedures of the Authority contain prescriptive requirements relating to the relationship between the Authority (represented by the Secretary-General) and contractors. These include, inter alia, time-sensitive reporting requirements. The regulations are supplemented by recommendations for guidance issued from time to time by the Legal and Technical Commission. In accordance with the terms of their contracts, each contractor is under an obligation to submit an annual activity report. Annual reports are due every year on 31 March. The objective of the reporting requirement is to establish a mechanism whereby the Secretary-General and the Legal and Technical Commission are properly informed of the contractors' activities so as to be able to exercise their functions under the Convention, particularly those relating to the protection of the marine environment from the harmful effects of activities in the Area. To facilitate reporting, in 2002 the Commission recommended a format and structure of annual reports (see ISBA/8/LTC/2, annex), including a standardized content list (general, exploration work, mining tests and mining technology, training, environmental monitoring and assessment, financial statement, proposed adjustment to the programme of work, conclusions and recommendations) which is based on the standard clauses for exploration contract set out in annex 4 to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (see ISBA/6/A/18, annex). Additional assistance for contractors in preparing their annual reports appears in the Recommendations for the guidance of the contractors for the assessment of the possible environmental impacts arising from exploration for polymetallic nodules in the Area issued by the Commission in 2001 pursuant to regulation 38 (ISBA/7/LTC/1/Rev.1).

62. In 2009, the Commission decided to promulgate further Recommendations for the guidance of contractors for the reporting of actual and direct exploration expenditures as required by annex 4, section 10, of the Regulations (ISBA/15/LTC/7). The purpose of these recommendations is to provide guidance to contractors in relation to the books, accounts and financial records to be maintained in accordance with the Regulations, the identification of internationally accepted accounting principles, the format for the presentation of financial information in the annual report, the definition of the actual and direct costs of exploration, and the form of certification of actual and direct exploration expenditures.

63. Although the contents of the annual reports are confidential, any relevant findings and recommendations of the Commission on the annual reports are presented in a report to the Secretary-General including, as appropriate, requests for clarification or further information. The Secretary-General conveys any such requests to the contractors by letter. Comments of a general nature with respect to the evaluation of the annual reports of the contractors may also be included in the report on the work of the Commission that the Chairman of the Commission presents to the Council.

B. Pending applications for contracts for exploration

64. In 2008, the Authority received two new applications for approval of plans of work for exploration for polymetallic nodules in reserved areas within the Clarion-Clipperton fracture zone of the Central Pacific Ocean. These applications were submitted by Nauru Ocean Resources, Inc. (sponsored by the Republic of Nauru) and Tonga Offshore Mining Ltd. (sponsored by the Kingdom of Tonga). In accordance with the Regulations, the

applications were considered by the Legal and Technical Commission during the fourteenth session. As the Commission was unable to complete its consideration of these applications during that session, the matter was carried over to the fifteenth session. Prior to the fifteenth session, however, the Commission was informed, in a letter dated 5 May 2009 and addressed to the Legal Counsel of the Authority, that the applicants had requested that consideration of their applications be postponed for a number of reasons that were set out in the letter. The Commission took due note of the request and decided to defer further consideration of this item until further notice. At the time that the present report is being compiled, the applications remain pending.

XIV. PROGRESSIVE DEVELOPMENT OF THE REGULATORY REGIME FOR ACTIVITIES IN THE AREA

65. Notwithstanding continued uncertainty in the prospects for commercial production of metals from deep seabed mining, the Authority has an important role to play in ensuring that an appropriate regulatory regime is established, in accordance with the Convention and the 1994 Agreement, that provides adequate security of tenure for future exploration for and exploitation of the mineral resources of the Area, while ensuring effective protection for the marine environment. It has always been envisaged that this regulatory regime would ultimately be encapsulated in a Mining Code, which would be the whole of the comprehensive set of rules, regulations and procedures issued by the Authority to regulate prospecting, exploration and exploitation of marine minerals in the Area. The Mining Code, however, is not yet complete. To date, the Authority has issued Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area and is in the process of adopting similar regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts (see section A below). One of the main problems for potential investors, however, is that no detailed regulations for the exploitation of the resources of the Area are yet in place, which makes commercial exploitation of these resources very difficult to contemplate.

66. While it may be considered premature to develop such regulations immediately, if the matter is to be addressed in the medium term, it is necessary to commence in-depth studies and analyses of the issues involved from both legal and economic perspectives now, while at the same time exercising caution not to exceed the mandate prescribed by the 1994 Agreement. Within these constraints, it is envisaged that over the period of the 2011-2013 work programme, the secretariat may commission a preliminary study of some of the issues associated with developing an exploitation code. That may include, for example, studies of relevant experience from offshore oil and gas development, as well as comparison studies of fiscal regimes for land-based mining.

A. Regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area

67. The Council will resume its work on the revised draft regulations on prospecting and exploration for polymetallic sulphides at the sixteenth session. It will be recalled that during the fifteenth session, the Council considered a number of outstanding issues with respect to the draft regulations. As a result of its discussions, the Council reached agreement on revisions to the following draft regulations: 21(3); 24(1); 28; and 45(3), and to the following provisions of annex 4 to the draft regulations: section 17.3; section 21.1 bis; and section 25.2. At the conclusion of the session, the secretariat issued a revised text of the draft regulations incorporating the revisions on which agreement had been reached (ISBA/15/C/WP.1/Rev.1). The Council was not able to complete its consideration of proposed revisions to regulations 12(5) and 23 dealing with, respectively, anti-monopoly and overlapping claims, and it was agreed to continue discussion of these issues at the sixteenth session with a view to finally adopting the draft regulations.

68. With respect to the draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area, it will be recalled that the Legal and Technical Commission began consideration of the draft regulations during the thirteenth session, in 2007, in accordance with a request made by the Council in 2006, the Commission having previously submitted (in 2004) draft regulations on prospecting and exploration for both

cobalt-rich crusts and polymetallic sulphides. At the twelfth session, in 2006, the Council decided to separate the draft regulations dealing with cobalt-rich crusts from those dealing with polymetallic sulphides. The former were to be remitted to the Commission for further and more detailed consideration in the light of the discussions that had taken place in the Council in 2005 and 2006, as well as any new or updated technical information that may have become available. The Commission worked on the draft regulations at the thirteenth, fourteenth and fifteenth sessions. At the fifteenth session, the Commission decided to adopt a revised text of the draft regulations as its recommendation to the Council, noting that the text adopted by the Commission had been fully aligned with the adjustments to the text of the draft regulations on polymetallic sulphides agreed by the Council in 2007 and 2008. The text adopted by the Commission has been submitted to the Council under the symbol ISBA/16/C/WP.2.

B. Implementation of article 82, paragraph 4, of the Convention

69. As noted in paragraph 3 of the present report, one of the specific responsibilities of the Authority under article 82, paragraphs 1 and 4, of the Convention is the responsibility to distribute to States parties to the Convention the payments or contributions in kind derived from exploitation of the non-living resources of the continental shelf extending beyond 200 nautical miles from the baselines of the territorial sea (the "outer continental shelf").

70. Under article 82 of the Convention, States or individual operators who exploit the non-living resources of the outer continental shelf are required to contribute a proportion of the revenues they generate from such exploitation for the benefit of the international community as a whole. This proportion is defined as 1 per cent of the value or volume of production at the site, rising by 1 per cent annually until it reaches 7 per cent, at which level it remains. Article 82, paragraph 4, gives the Authority responsibility for distributing these revenues "on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and the land-locked among them". As the competent international institution to administer article 82 payments and contributions, it is reasonable to expect that the Authority should anticipate and take steps towards the implementation of this provision.

71. In February 2009, the Authority collaborated with the Royal Institute of International Affairs (Chatham House), United Kingdom of Great Britain and Northern Ireland, an independent policy research institution, in convening a seminar as a preliminary step in the exploration of issues associated with the implementation of article 82. As part of this work, the Authority commissioned two studies dealing with the legal and policy issues associated with the implementation of article 82, and the technical and resource issues associated with the outer continental shelf, respectively. During the seminar, legal, economic, technical and policy experts from the International Tribunal for the Law of the Sea (ITLOS), the Organization of the Petroleum Exporting Countries (OPEC), the private sector and academia reviewed the studies and provided commentaries on specific aspects of the issues concerned. The two studies commissioned by the Authority were revised in the light of the views of the experts participating in the seminar and have since been issued as ISA Technical Studies No. 4 (published December 2009) and No. 5 (publication due April 2010).

72. Among the conclusions of the seminar were that, notwithstanding current global economic conditions, exploitation of non-living resources on the outer continental shelf is moving inexorably closer, particularly in relation to hydrocarbons. Other resources of potential significance include gas hydrates, which are abundant. It can be realistically anticipated that the first commercial production of resources from the outer continental shelf will occur by 2015.[2] It was further noted that the implementation of article 82 raises practical issues for the Authority as well as for individual producer States. Among the key issues for the Authority are how it should interact with producer States and how it should devise a scheme for the distribution of potential payments and contributions. In view of the long lead time needed for mineral development projects, it would be important to address these issues well before the commencement of commercial production from the outer continental shelf.

[2] See ISA Technical Study No. 5 (2010), "Non-living Resources of the Continental Shelf Beyond 200 Nautical Miles: speculations on the implementation of article 82 of the United Nations Convention on the Law of the Sea".

73. One of the critical impediments to the development of non-living resources on the outer continental shelf is the process of determining the extent of that area. The procedure for the definition of the outer limit of the continental shelf is set out in article 76 of the Convention and includes consideration by the Commission on the Limits of the Continental Shelf, an expert international body established in that instrument for this purpose. On completion of this procedure, including taking into consideration the recommendations of the Commission, if any, a coastal State can establish the outer limits of its continental shelf, which shall then be final and binding. It is estimated that between 60 and 70 coastal States may have claims to areas of continental shelf beyond 200 nautical miles. As of January 2010, 51 submissions in respect of potential continental shelf areas beyond 200 nautical miles had been deposited with the Commission, and a further 44 preliminary indicative notifications of potential claims had been deposited with the Secretary-General of the United Nations in accordance with the procedures agreed by the Meeting of States Parties to the Convention (SPLOS/183).[3]

74. An obvious difficulty for the Authority and its member States is that, until the precise delineation of all areas of continental shelf beyond 200 nautical miles is known, the geographic limits of the Area cannot be established with any certainty. For this reason, article 84, paragraph 2, of the Convention requires coastal States to give due publicity to charts or lists of geographical coordinates of the outer limit lines of the continental shelf and, in the case of those extending beyond 200 nautical miles, to deposit a copy of such charts or lists with the Secretary-General of the Authority. This requirement is in addition to the requirement under article 76, paragraph 9, of the Convention to deposit such charts or lists, as well as other relevant information, with the Secretary-General of the United Nations. In this regard, the Secretary-General is pleased to inform the Assembly that, on 21 October 2009, Mexico became the first member of the Authority to formally notify the Secretary-General that it had deposited charts and other relevant information on the outer limit of its continental shelf with respect to the western polygon in the Gulf of Mexico. The Authority estimates that the delineation of all pending claims to areas of outer continental shelf will, unfortunately, be a lengthy process. Nevertheless, article 84, paragraph 2, of the Convention is an important provision which is designed to facilitate the effective administration of the Area for the benefit of all States. Members of the Authority are thus encouraged to observe the provisions of article 84, paragraph 2, as soon as possible after the outer limits of the continental shelf have been established in accordance with the other provisions of the Convention.

75 In the context of the programme of work for the period 2011-2013, and as a follow-up to the Chatham House seminar held in 2009, it is proposed to convene an expert group meeting involving representatives of member States, members of the Legal and Technical Commission and other relevant experts, to consider and help to prepare draft recommendations to the Council and the Assembly on the implementation by the Authority of article 82, paragraph 4, of the Convention.

XV. MONITORING TRENDS AND DEVELOPMENTS RELATING TO DEEP SEABED MINING ACTIVITIES, INCLUDING WORLD METAL MARKET CONDITIONS AND METAL PRICES, TRENDS AND PROSPECTS

76. As in other sectors, the ocean mining industry continues to suffer from the world economic downturn and its effect on mineral prices. However, there are limited signs that the market for the traditional metals of interest obtainable from seabed minerals, particularly nickel and cobalt, is in a recovery phase. In particular, the global market structure for cobalt has changed drastically over the past few years. Unlike in previous years, when it was a by-product of other operations, cobalt is now being manufactured separately as new end-use applications have emerged and the commodity price has continued to increase. The global market for nickel is driven primarily by demand in emerging economies, which can be expected to increase rapidly once these economies move out of recession. Furthermore, several experts have recently suggested that the presence of rare earth elements, such as

3. See http://www.un.org/Depts/los/clcs_new/commission_submissions.htm.

gallium, indium and tellurium, in marine mineral deposits may become a driving force for exploration for and mining of these deposits as the demand for rare earth elements in emerging technologies increases and supply tightens.

77. Overall, however, it is clear that the global economic crisis has contributed to further delay in the advancement of commercial mining. The private seabed exploration and mineral development company, Neptune Minerals, for example, was delisted from the Alternative Investment Market of the London Stock Exchange in February 2009 and began a restructuring effort. Since then, senior management has been replaced and the company is in the process of raising additional funding to continue its operations. Despite this, the company has maintained its 100 per cent interest in 25 prospecting licences for sea floor massive sulphide deposits. These prospecting licences are located in the continental shelves of New Zealand, the Federated States of Micronesia, Papua New Guinea and Vanuatu, and total over 278,000 square kilometres of sea floor. [4]

78. Another private corporation, Nautilus Minerals, Inc., cancelled all of its capital equipment expenditures in December 2008. However, that did not stop the company from moving ahead with further exploration and research of possible mine sites. It is particularly notable that Nautilus Minerals has invested in the development of new target generation techniques and technology for locating and identifying sea floor massive sulphide deposits. These new methodologies have improved the company's success ratio in identifying probable new sites. The Solwara sites located in the Bismarck Sea in the territorial waters of Papua New Guinea and under licence to Nautilus were subject to further exploratory drilling in late 2008 and through 2009. The mineral results were found to be positive, with many of these areas characterized as high grade zones. In conjunction with its partner, Teck Resources, a major Canadian mining company, Nautilus has also discovered additional dormant sea floor massive sulphide deposits in the Bismarck Sea, bringing the total identified sites in this area to 18.

79. In 2009, Nautilus also received its final environmental permit for the Solwara 1 site from the Department of Environment and Conservation of Papua New Guinea. The permit is valid for a term of 25 years, expiring in 2035. Nautilus also secured an agreement for port capacity at Rabaul, Papua New Guinea, for 1.5 million tons of ore per year with an option to begin operations in January 2012. Nautilus and Teck Resources also report that they have established that there are at least four commercially viable sea floor massive sulphide sites around Tonga: at Maka and Tunu-Sosisi (comprising three subsystems), and Pia and Niua (comprising two subsystems).

A. Trends in demand for rare earth elements used in emerging technologies and the potential impact on seabed mining

80. During the Authority's workshop on the results of the project to develop a geological model of polymetallic nodule formation in the Clarion-Clipperton zone (see part XVI), held in December 2009 in Kingston, a number of experts recommended that a market-oriented study be commissioned to help the international community to assess the economic potential of trace elements contained in sea floor deposits. These rare earth elements and other trace metals have recently been receiving an increasing amount of attention from potential investors and the international press. Major television stations and newspapers worldwide, especially in the United States of America, have recently taken up the issue of the effect of possible shortages in the supply of these raw materials.[5]

81. The increased awareness of rare commodities (other than major elements like nickel and copper) potentially obtainable from sea floor deposits is based on several circumstances. First, emerging technologies, especially so-called "green technologies" such as hybrid cars, wind turbines and battery systems, require enormous amounts of rare earth elements, resulting in an impending increase of the commodity prices of, for

4. Source: Nautilus Minerals, Inc. website at http://www.nautilusminerals.com.

5. For example, the video entitled "China Rides Green Revolution, Limiting Export of Rare Metals" contains a discussion with *The New York Times* international business editor on "World Focus".

example, dysprosium, neodymium and europium. The availability of sufficient quantities of these elements at moderate cost is closely related to the broader context of renewable energies, carbon dioxide emission reduction and climate change; the supply of certain key elements may become an enabling or prohibitive factor for future "clean technologies". Second, besides energy and transport technologies, rare earth elements are used increasingly in electronics and other applications, including military technologies. The term "spice metals" has been coined, which refers to the fact that these metals are sprinkled like spices in most modern technologies, such as mobile phones, laptop computers, batteries and MP3 players. Industry sources suggest that 25 per cent of all new technologies rely on rare earth elements.

82. More than 95 per cent of all the rare earth elements currently consumed in the world are produced in China at present. However, the rapid increase in Chinese domestic electronics manufacturing may consume the entire domestic rare earth element production in the near future. As a result, China has already been imposing quotas on rare earth element exports, resulting in a shaky supply to the world market. Significant land-based reserves of rare earth elements exist throughout the world and are yet to be developed. The United States of America, for example, has one of the largest reserve bases (14 million tons of the global total of approximately 80 million tons). However, no mining has taken place in recent years, since economic considerations and environmental issues have been prohibitive to commercial operations. [6]

83. The global consumption of rare earth elements in 2008 amounted to 124,000 tons, valued at US$ 1.25 billion. Presently, midterm market demand forecasts assume a growth of 10 per cent per annum from existing technology only, leading to an estimated demand in 2014 of 200,000 tons, valued at between US$ 2 billion and US$ 3 billion.[7] Long-term projections for rare materials that factor in the demand from new technologies are even more optimistic. A study by the German Frauenhofer Institute predicts a drastic increase worldwide in the demand for certain elements used in future key technologies until 2030. These include gallium (increase of 609 per cent), neodymium (382 per cent), indium (329 per cent) and germanium (244 per cent).[8] Driven by the market and possibly also by political decisions, more land-based deposits are expected to be developed. However, owing to the widely dispersed, but rarely concentrated nature of the spatial distribution of the ores, only small amounts of these deposits are profitable.[9] Alternative sources are being explored and related studies aiming at meeting future demand are being commissioned by many Governments. For example, Japan, which is one of the world's largest consumers of rare earth elements, is actively assessing sea floor deposits as a potential new source for rare earth elements, primarily cobalt-rich ferromanganese crust deposits within its exclusive economic zone.[10]

84. In the light of these developments, it is proposed to carry out a study to address the question of whether sea floor deposits have the potential to become an alternative source of rare earth elements and other trace metals. Such a study will provide an analysis and synthesis of long-term market projections and the available information on geochemical composition and geographical distribution of various sea floor deposits. The study will

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6. A Conference on Technology and Rare Earth Metals for National Security and Clean Energy Policy takes place on 17 and 18 March 2010 in Washington, D.C.

7. IMCOA 2009 updated market forecast.

8. Study commissioned by the German Federal Ministry of Economics and Technology and published in German under the title *Rohstoffe für Zukunftstechnologien* (2009). The study focuses on future key technologies in the areas of transport, information and communication technology, energy, electrical and drive technology, chemistry, mechanical engineering and medicine. The study examines prospects for the "high-tech" metals copper, chromium, cobalt, titanium, tin, antimony, niobium, tantalum, platinum, palladium, ruthenium, rhodium, osmium, iridium, silver, neodymium, scandium, yttrium, selenium, indium, germanium and gallium.

9. A. V. Naumov (2008), "Review of the world market of rare-earth metals", in *Russian Journal of Non-Ferrous Metals*, vol. 49, No. 1 (February, 2008).

10. H. Kawamoto, Japan's Policies to be adopted on Rare Metal Resources, 2008. Available from http://www.nistep.go.jp/achiev/ftx/eng/stfc/stt027e/qr27pdf/STTqr2704.pdf.

also identify relevant economic, environmental and technological considerations relating to the assessment of the commercial potential of seabed deposits in comparison with land-based deposits. Over the past few years, the secretariat has significantly enhanced its geographic databases, including information on the location and geochemical composition of mineral resource deposits. It has to be noted, however, that the significance of the proposed study is still limited by a lack of adequate geochemical and geographical information on quantities and qualities of seabed resources. Economic and technological changes, as well as potential new discoveries on land, represent further uncertainties related to the assessment of the economic potential of seabed resources.

85. The outcome of this project will be a technical study, which is also accessible to non-scientific audiences, including policymakers. The study will be structured in three parts, based on the selection of relevant commodities of interest. The first part will contain economic data, including historical charts, recent trends, midterm forecasts and long-term projections for relevant commodities. The second part will focus on the geochemistry, geographic distribution and regional economic potentials of known seabed mineral resources (polymetallic nodules, cobalt-rich ferromanganese crusts and polymetallic sulphides). This section will reproduce geochemical analysis results for sampling locations from the Authority's databases and from other sources, covering the major deposit types. An updated dataset on polymetallic sulphides, including geochemical analysis results for rare earth elements, has recently been compiled and integrated into the secretariat's geographical information system. Entities under exploration contract with the Authority will be encouraged to contribute additional data. Based on the secretariat's geographic information on deposit locations and properties, bathymetry, terrain structure and other related data, this part of the study will also attempt to localize geographic areas of particular interest. This will feature thematic maps on mineral resource distribution, regional potentials, geostatistical assessments and other spatial modelling results. Knowledge gaps in terms of geographic information and future needs for data accumulation will also be identified. The third part of the study will examine the economic, environmental and political considerations of the exploration and mining of seabed deposits and issues related to present and future metallurgical and mining technologies, comparing land-based and seabed operations. Given the limitations imposed by the present data available and other uncertainties with respect to future technological, economic and regulatory regimes, the study will not be able to determine conclusively whether conditions for mining rare earth elements are more favourable on land or on the seabed, either within exclusive economic zones or in the Area. However, it can, based on available information, help to assess the regional and overall potentials of seabed mineral resources with respect to emerging technologies.

B. Developments in ocean technology relevant to seabed mining

86. One of the principal driving factors behind the commercial viability of deep seabed mining is the availability of appropriate and cost-effective technological solutions to enable miners to operate in deep water environments. In this regard, it will be recalled that a workshop was held by the Authority in Chennai, India, in February 2008 on the current status and challenges ahead for polymetallic nodule mining technology. The report of the Workshop recognized that there had been considerable duplication in many development efforts to that stage. It also recognized that much of the technology that would be needed for mining was mature and already commercially available for use in other applications. The current contractors with the Authority — six of which made presentations at the workshop — have in general made limited progress in the development of commercial mining technology. Small-scale prototype collectors for polymetallic nodules have been tested at shallow depths by COMRA (tests at 8 metres with a proposal to conduct a test at 1,000 metres), Korea Ocean Research & Development Institute (KORDI) (planning a test at 100 metres' depth) and the National Institute for Ocean Technology, India (tested at 410 metres' depth). One expert participant in the workshop who had worked for the Kennecott Consortium in the 1970s noted that the offshore oil and gas industry was already operating at depths approaching those of future polymetallic nodule mines. In 1985 the world record for deep ocean exploratory drilling was 2,290 metres of seawater; currently, the world record stands at 2,851 metres. This participant noted further that riser hardware for deepwater and harsh environments is mature, subsea power systems and pumps of the magnitude required for mining are now used routinely, and that as long as functional designs for deep seabed mining are ready, equipment would be commercially available.

87. The undersea technology marketplace continues to mature, especially as the offshore oil and gas industry, for example, continues to move into deeper and deeper water. In particular, the past two decades have seen rapid progress in the development of mature marine technology, particularly remotely operated vehicles (ROV) and autonomous underwater vehicles (AUV) with the capability of operating safely and efficiently at great depths. Development of ROV systems began in the early 1970s and the technology is today considered mature and robust. Many specialized tooling systems have been created to allow for efficacious surface intervention using ROVs in support of ultra-deepwater oil and gas drilling operations. These tools are analogous to the tools that will eventually collect minerals from the sea floor, and it can be expected that ROV and AUV technology will find application in exploration for marine minerals. Nautilus Minerals, Inc., for example, made extensive use of ROVs for detailed site surveys where basic visual, advanced sub-bottom imagery and rock coring operations were conducted at its exploration tenements off the coast of Papua New Guinea. Nautilus also made use of the mature technology being used for diamond mining by the DeBeers Group off the coast of Namibia and South Africa in developing its proposed mining equipment for sea floor massive sulphides.

88. The 23rd of January 2010 marked the fiftieth anniversary of the record-breaking dive by the bathyscaphe *Trieste*, crewed by Jacques Piccard and Don Walsh, to the Challenger Deep in the Marianas Trench, which, at a depth of 10,920 metres, is the deepest point in the oceans. Since that time no humans have ever physically revisited this site. The Japan Agency for Marine-Earth Science and Technology (JAMSTEC) returned to the site on 24 March 1995 using the ROV *Kaiko*, but this remained the only full ocean depth-capable system available globally until its loss in a typhoon in 2003. Recently, however, on 31 May 2009, the Woods Hole Oceanographic Institution (WHOI) Deep Submergence Laboratory returned to the Challenger Deep using the new hybrid ROV/AUV *Nereus*. This vehicle, which is at present the only system currently available that is full ocean depth-capable, can operate in shallower depths as an AUV, but in deeper depths a small fibre-optic cable allows pilots to control it as a traditional ROV.

89. China has been developing the *Harmony 7000* human occupied vehicle (HOV) for many years; this effort reached a milestone in September 2009 with the completion of operational sea trials. The *Harmony 7000* is a three-person submersible designed to dive to 7,000 metres, equipped with a full suite of scientific sensors in addition to assorted subsystems, including manipulators, cameras, navigation systems, lighting, life support, communications, ballast and structure.

90. Significant developments have also taken place in AUV design and development, and it can also be expected that these systems will have an important role to play in better understanding the environment of the Area. AUVs have considerable range and can be configured with sub-bottom profilers, sidescan sonar and high resolution intertia navigation systems. A single surface vessel can support multiple AUVs, which allows large areas of sea floor to be surveyed much faster than using traditional single towed bodies. In 2009, a Rutgers University AUV Slocum glider, the *Scarlet Knight*, successfully crossed the Atlantic Ocean. The vehicle was launched off the coast of New Jersey, United States of America, and travelled nearly 7,300 kilometres over 201 days, finally surfacing inside Spanish territorial waters on 14 November 2009. Glider AUVs such as the Slocum and Sea Glider have attributes that make them well suited for environmental monitoring tasks. They are designed to use internal ballast that causes them to dive and surface in an undulating fashion. Since these AUVs use very little power they can be deployed for long durations. These systems have satellite communications and every night they can surface and broadcast the data collected that day. Different sensor systems can be deployed depending on the requirements of the mission. It is envisioned that technology like this could in future be deployed around a mine site to assist in performing monitoring operations.

91. Oceanographic research laboratories globally have also evolved into taking a multidisciplinary approach to their research programmes. These efforts have identified the requirement for diverse systems designed for mission-driven operations, allowing researchers ready access to areas of the sea floor that had previously been inaccessible, such as in the Arctic Ocean. For example, in March 2010, Natural Resources Canada (NRCan) took delivery of two AUVs' depth rated to 5,000 metres of seawater to perform research operations under ice in the

Lincoln Sea in support of Canada's seabed survey programme for article 76 of the Convention. Once an AUV has mapped any area, this data can be further analysed for areas of interest for additional detailed exploration. The ROV provides the next tool in these research programmes for specific site visual survey and sample collection operations. Diverse and specialized sensors, tools and in situ experiments have been developed in support of scientific ROV operations. Tools and operational methodologies such as these provide an excellent repository of intellectual property from which to develop standardization requirements for environmental impact assessment.

92. Another potential tool for researchers is the cabled research observatory. It has been a topic of discussion in the global scientific community for the past decade. Cabled research observatories are diverse in their design and have sensor suites deployed to answer specific scientific questions and provide real-time monitoring. Deployment of these observatories began with the Victoria Experimental Network Under the Sea (VENUS) project established at the University of Victoria in British Columbia, Canada. This was closely followed by the Monterey Accelerated Research System (MARS), installed and operated by the Monterey Bay Aquarium Research Institute (MBARI) in Moss Landing, California, United States of America. The Government of the United States also recently funded the Ocean Observatory Initiative (OOI), the designs for which are currently being finalized. In Europe, the European Seafloor Observatory Network (ESONET) is in development and has nodes planned for locations in the Arctic Ocean, the Norwegian margin, the Nordic Seas, the Azores, the Iberian Margin, the Ligurian Sea, the Hellenic and East Sicily regions in the Mediterranean Sea, and the Black Sea. Meanwhile, JAMSTEC has been developing and is in the early stages of deploying the Dense Oceanfloor Network System for Earthquakes and Tsunamis (DONET). This is a submarine cabled real-time sea floor observatory network for precise earthquake and tsunami monitoring. The Information System about the Marine Environment (ISMO) in the Gulf of Trieste is a system of continuous data exchange among institutions that have set up stationary measurement platforms on the Adriatic Sea. The System is intended to offer environmental information to a broad public constituency and to strengthen collaboration among the institutions that will participate in the data exchange.

93. Observatory programmes such as those described above will provide new measuring and monitoring technology that will ultimately be deployable in the Area. The Authority will continue closely to monitor the development of these new systems and to evaluate their relevance to the implementation of its responsibilities under the Convention and the 1994 Agreement. In the context of the 2011-2013 work programme, and taking into account the new developments since 1999, it is proposed to prepare new technology guidelines for the benefit of prospective contractors. These guidelines will furnish information on available vehicle types and subsystems, providing detailed information on how each of these subsystems functions within the confines of the application. Subsystem integration is another topic that will be addressed so that anyone undertaking a development programme will have a template of questions on which to base the system design. Additional information will be provided listing existing companies producing this technology. All vehicles are mission-driven and the guidelines will address how to make the correct technological decisions. A discussion will also be included defining what technologies are appropriate for performing different tasks, for example, survey versus mining operations.

XVI. COLLECTION AND ASSESSMENT OF DATA FROM PROSPECTING AND EXPLORATION AND ANALYSIS OF THE RESULTS

94. It will be recalled that in 2003, during an international workshop held at Nadi, Fiji, the Authority launched a project to develop a geological model of polymetallic nodule deposits in the Clarion-Clipperton fracture zone. This project was completed in December 2009, when a final workshop to introduce the results of the model was held at the headquarters of the Authority. The workshop was attended by experts from academic institutions, public and private enterprises, contractors and member States, as well as a number of members of the Legal and Technical Commission. The workshop was also webcast live over the Internet. The outputs of the geological model project — the Prospector's Guide and the Geological Model itself — were reviewed by external experts and a number of recommendations were put forward. These have been incorporated in the final document, which will be published as an ISA technical study. The workshop recommendations will be submitted to the Legal and Technical Commission and the Council for review during the sixteenth session.

95. The Geological Model as finally adopted following peer review consists of a set of digital and hard copy maps and tables describing the predicted metal content and abundance of deposits in the Clarion-Clipperton fracture zone, along with associated error estimates. The associated documentation describes the model testing procedures and algorithms used in producing the final model results. The Prospector's Guide examines all potential proxy data variables identified as important indicators of metal content and abundance, and outlines specific data sets that qualify for use in the Geological Model and data information on all known nodule deposits in the Clarion-Clipperton fracture zone. The Authority's effort to model the polymetallic nodule resources in the Clarion-Clipperton fracture zone, an area covering nearly 12 million square kilometres, is the largest and most complex such undertaking to date.

96. During 2009, the secretariat was able to initiate work on a new project to establish a geological model of polymetallic nodule deposits in the Central Indian Ocean basin. For this purpose, the services of scientists with expertise in polymetallic nodule exploration and environmental impact assessment were engaged to prepare a project inception report. A meeting of experts was convened in October 2009 at the National Institute of Oceanography, Goa, India, to consider the possible proxy data that can be used for model studies and to identify possible expert team members to begin to work on developing the model throughout the period 2010 2012.

XVII. PROMOTION AND ENCOURAGEMENT OF MARINE SCIENTIFIC RESEARCH IN THE AREA

97. Under article 143 of the Convention, the Authority has a general responsibility to promote and encourage the conduct of marine scientific research in the Area and to coordinate and disseminate the results of such research when available. It also has a duty under articles 145 and 209 to ensure effective protection of the marine environment from harmful effects which may arise from activities in the Area. The most immediate and practical way in which the Authority has begun to implement its responsibilities under the Convention and to fulfil its various mandates under paragraph 5 of section 1 of the annex to the 1994 Agreement, particularly under subparagraphs (f) to (j), has been the establishment of a series of expert workshops, seminars and meetings. The Endowment Fund also contributes to the development of capacity to carry out marine scientific research in the Area.

98. A key factor for the Authority is that, although a significant amount of basic and applied research has been done in the past or is still in progress, it is broadly accepted that the current level of knowledge and understanding of deep-sea ecology is not yet sufficient to allow conclusive risk assessment of the effects of large-scale commercial seabed mining, as opposed to exploration. In order to be able in future to manage the impact of mineral development in the Area in such a way as to prevent harmful effects to the marine environment, it will be essential for the Authority to have better knowledge of the state and vulnerability of the marine environment in mineral-bearing provinces. This includes, inter alia, knowledge of baseline conditions in these areas, the natural variability of these baseline conditions and their relationship with impacts related to mining. It is also important that such data are standardized, including taxonomic information.

A. Technical workshops

99. The objective of the technical workshops convened by the Authority is to obtain the views of recognized experts in the protection of the marine environment and other specific subjects under consideration and to obtain the most recent marine scientific research results pertinent to the subject matter. In order to disseminate the results as broadly as possible, the proceedings of the workshops are published in book format and on the Authority's website. The outcomes of these workshops have also been submitted to the Legal and Technical Commission to assist it in its work. Most of the international workshops convened by the Authority to date have covered issues associated with managing the possible impacts of mining on the marine environment. They are increasingly recognized by the international scientific and research community as important and authoritative contributions to the specialized scientific literature on deep seabed mining.

100. During 2010, the Authority will convene an international workshop to review further a proposal under consideration by the Legal and Technical Commission for the establishment of a network of areas of particular environmental interest in the Clarion-Clipperton fracture zone of the Central Pacific Ocean. At its meeting during the fifteenth session, the Commission concluded that to prevent future irreversible damage to the marine environment, and taking into account its mandate under article 165, paragraphs (d), (e) and (h), of the Convention, and regulation 31(2) of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, the development of polymetallic nodule resources in the Clarion-Clipperton fracture zone demanded a rational and comprehensive environmental management plan for the region as a whole, based on the best available scientific knowledge. Such a plan should include a clear definition of the conservation objectives for the zone, as well as a comprehensive environmental monitoring programme and the definition of a network of representative areas, based on sound scientific criteria, for environmental purposes. The plan should also be fully consistent with the precautionary principle, but should be flexible in order to allow changes as and when new scientific information is gathered. The objective of the workshop will therefore be to obtain the best possible scientific and policy advice on the formulation of an environmental management plan at the regional scale for this area.

B. Strengthening and coordination of international cooperation in marine scientific research

101. At all of the Authority's workshops, the need for cooperation between scientists and coordination of their efforts has been raised repeatedly; hence the second major element in the Authority's efforts to promote marine scientific research has been to act as a catalyst for international collaboration in projects which will help to manage the impact of deep seabed mining and related activities. Specific recommendations from these workshops have included proposals for:

(a) Collaborative studies on the natural variability of the deep-sea ecosystem, consisting of interdisciplinary variability studies of areas under contract, and unification and standardization of research and development methods;

(b) Cooperative biological research on the typical latitudinal and longitudinal ranges of benthic species, the rate and spatial scales of gene flow and the natural spatial and temporal patterns and scales of benthic community variability;

(c) Taxonomic coordination utilizing recognized experts to assist in the correct identification of animal fauna living on the deep seabed, for the purposes of establishing the geographical ranges of species and thus the likelihood of their extinction by a mining operation;

(d) The creation of databases by the Authority to enable contractors to keep up to date with the environmental data and information collected by other contractors and researchers, and to facilitate the work of the Legal and Technical Commission and the other organs of the Authority;

(e) Collaboration in the development of technology, including data-sharing, participation in tests and joint environmental investigation.

102. The Authority has taken steps to progressively address these recommendations in its substantive programme of work. However, it is clear that much more collaborative work among contractors, marine research organizations and the Authority is required if the international community is to be able to take informed decisions on measures required for better environmental management of the Area.

103. Based on the experience gained from previous collaborations, a number of partnerships have been implemented and others have been identified for future consideration. These include a collaboration with the Global Census of Marine Life on Seamounts (CenSeam) programme to obtain data on seamount biodiversity in the western Pacific Ocean, and a collaboration with the Biogeography of Deep-Water Chemosynthetic Ecosystems (ChEss) programme of the Census of Marine Life to obtain relevant species lists for fauna associated with polymetallic sulphide deposits in the Area.

104. The objective of the arrangement with CenSeam was to obtain new data on seamount biodiversity in the western Pacific Ocean. The area identified as of greatest interest, and where very few seamounts have been sampled, stretches west from the Hawaiian Islands to the Marianas Trough in a band between approximately 8°N and 24°N. The collaboration took place between 2007 and 2009. The final report from the collaboration was received in 2009. It contains a complete species list of organisms found at the crust and non-crust locations sampled, representative images of each species listed, and full sample data (latitude and longitude, seamount name, depth and other appropriate information). The report also identifies information gaps, and makes suggestions on how best to increase the knowledge of communities associated with cobalt-rich crusts and their vulnerability to commercial activity associated with these minerals, including recommendations that may be reflected in future guidance to exploration contractors. The report is being edited for distribution in 2010 as a technical publication of the Authority. It is also proposed to hold a workshop to review the outcomes of the collaboration and to assist the Authority in deciding the direction of environmental study with regard to cobalt-rich crusts.

105. Both ChEss and the Authority are concerned with the protection of chemosynthetic ecosystems found at hydrothermal vent sites from human impact. In 2008, ChEss proposed a collaboration with the Authority to convene a workshop to formulate a general approach for the design of networks of areas for the environmental protection of hydrothermal-vent and cold-seep ecosystems, and to outline research needs to assist the spatially based ecosystem management of human impacts in deep-sea chemosynthetic ecosystems. It is anticipated that this workshop will take place in June 2010, and it is hoped that it will be able to identify gaps in current knowledge and potential areas for future collaboration to fill such gaps.

106. In June 2009, in another type of collaboration, the Secretary-General of the Authority and the Secretary-General of COMRA signed a memorandum of understanding at the headquarters of the Authority to enhance future cooperation. As a follow-up to this development, in November 2009 the School of Oceanic and Earth Science of Tongji University, Shanghai, China, which is affiliated with COMRA with regard to research projects for deep seabed activities, offered to provide five scholarships for master's and doctorate degree candidates from developing countries in the field of marine sciences. It is planned that the candidates will be jointly selected by the Authority and Tongji University, and the project will be made long term, given a successful start. In addition, the secretariat and Tongji University are currently working on a short-term training course for scientists from developing countries in marine sciences, to be conducted in 2010 in Shanghai.

107. The Authority's regional, national and international relationships with academia, research, governments and non-governmental organizations have made it clear that relevant work experience is one of the most important considerations in hiring new employees. To help prepare students to be competitive and effective upon graduation, the Authority is working closely with interested parties in the marine fields to develop an internship and associate expert programme that would be closely tied to the academic and professional background of students.

C. Regional sensitization seminars on activities in the Area

108. Since 2007, the Authority has developed a programme of regional sensitization seminars on marine minerals and other issues relevant to its work. The purpose of these seminars is to inform government officials, marine policymakers and scientists at national and regional institutions of the work of the Authority, and to promote the participation of scientists from institutions in developing countries in marine scientific research being undertaken in the Area by international research organizations. Typically, the seminars include presentations by experts on the type of minerals to be found in the Area, resource evaluation, the protection and preservation of the marine environment from activities in the Area, and the process and status of the legal regimes established for recovery of seabed minerals, as well as presentations on relevant regional issues with respect to the law of the sea.

109. To date, three such seminars have taken place: in Manado, Indonesia (March 2007); Rio de Janeiro, Brazil (November 2008); and Abuja, Nigeria (March 2009). A fourth seminar took place in Madrid from 24 to 26 February 2010, and a fifth seminar (for the Caribbean region) will be held in Jamaica in September 2010.

110. As a direct spin-off from the sensitization seminar held in Rio de Janeiro, the Government of Brazil decided to initiate a project to integrate all the information available in Brazil and abroad on the geology and mineral resources of the Equatorial and South Atlantic Ocean, an area where relatively little mineral prospecting has taken place so far. This project, which will be carried out in collaboration with other interested countries in the Equatorial and South Atlantic and the Authority, involves the creation of a single geographic information system which will help to identify areas of occurrence of mineral resources with economic value and will also assist in developing and improving techniques for geophysical and geological reconnaissance of mineral resources. The project also envisions capacity-building and marine scientific research.

D. Conservation and sustainable use of marine biological diversity in the Area

111. The Area, as defined in the Convention, exists as a particular part of ocean space beyond the limits of national jurisdiction. It is subject to the specific legal regime of the Area under the Convention and the 1994 Agreement. One of the chief characteristics of this legal regime is the importance given to the need to protect the marine environment from harmful effects and to conserve its natural resources. Article 209 of the Convention (located in Part XII of the Convention) requires that international rules, regulations and procedures shall be established in accordance with Part XI of the Convention, and re-examined from time to time as necessary, to prevent, reduce and control pollution of the marine environment from activities in the Area. This provision appears alongside article 208, which imposes on coastal States the duty to adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction. Such laws, regulations and measures shall be no less effective than international rules, standards and recommended practices which are to be developed through competent international organizations or diplomatic conferences (article 208, paras. 3 and 5). Article 145 of the Convention, which is located in Part XI and gives effect to the general obligation under article 209, requires the Authority, inter alia, to ensure effective protection for the marine environment from harmful effects of activities in the Area. More specifically, article 145 requires the Authority to adopt rules, regulations and procedures for "the prevention, reduction and control of pollution and other hazards to the marine environment" and for "the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna [i.e., the biodiversity] of the marine environment". It can be seen that the interrelationship between the relevant provisions of Parts XI and XII of the Convention means that these represent important responsibilities and duties for the Authority, which need to be considered as an integral part of the overall framework for ocean governance within the jurisdictional competences established by the Convention.

112. The international community has expressed in several ways (binding instruments and soft law) and forums that the protection of the environment is also a fundamental component of sustainable development. In April 2002, at the sixth meeting of the Conference of the Parties to the Convention on Biological Diversity, 123 States committed themselves to actions to "achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level as a contribution to poverty alleviation and to the benefit of all life on earth". In the Johannesburg Declaration on Sustainable Development, the World Summit on Sustainable Development observed the continuing loss of biodiversity and resolved to protect biodiversity "through decisions on targets, timetables and partnerships". In the Johannesburg Plan of Implementation, the World Summit agreed to action to significantly reduce the rate of biodiversity loss globally by 2010. Various approaches and tools for the conservation and sustainable use of marine biodiversity are referred to in the Johannesburg Plan of Implementation, including the application of an ecosystem approach by 2010 (para. 30 (d)), the establishment of marine protected areas consistent with international law and based on scientific information, including representative networks by 2012, and the development of national, regional and international programmes for halting the loss of marine biodiversity (para. 32 (c) and (d)).

113. As far as marine biological diversity beyond areas of national jurisdiction is concerned, the General Assembly of the United Nations has, in successive resolutions, called upon States and relevant international organizations at all levels to urgently consider ways to integrate and improve, on the basis of the best scientific information available, including the application of precaution as set out in principle 15 of the Rio Declaration on Environment and Development, the management of risks to vulnerable marine biodiversity within the framework of the Convention, consistent with international law and the principles of integrated ecosystem-based management. Most recently, in operative paragraph 153 of resolution 64/71, the General Assembly reaffirmed "the need for States to continue and intensify their efforts, directly and through competent international organizations, to develop and facilitate the use of diverse approaches and tools for conserving and managing vulnerable marine ecosystems, including the possible establishment of marine protected areas, consistent with international law, as reflected in the Convention, and based on the best scientific information available, and the development of representative networks of any such marine protected areas by 2012". In the sixteenth preambular paragraph of the same resolution, the Assembly also recognized that "there is a need for a more integrated approach and to further study and promote measures for enhanced cooperation, coordination and collaboration relating to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction".

114. Both the Convention and the annual resolutions of the United Nations General Assembly on oceans and the law of the sea emphasize the fact that activities in the oceans are interrelated and need to be considered as a whole. Better cooperation and coordination between international organizations with mandates over activities in the oceans is therefore essential, not only to ensure consistency of approach, but also to ensure comprehensive protection of the marine environment in all zones of maritime space within and beyond national jurisdiction in the manner envisaged by articles 208 and 209 of the Convention. It is important, therefore, that the responsibilities and activities of the Authority are considered in the broader context of developments within the law of the sea as a whole, while the activities of other competent bodies are conducted in such a manner as to fully respect the legal regime of the Area.

115. The measures taken by the Authority to date with respect to the Area are fully consistent with the sentiments expressed by the General Assembly. In the first instance, the Authority manages risks to deep sea biodiversity by adopting regulations governing activities in the Area and by monitoring the activities of contractors who are carrying out such activities. In addition, the Authority has taken steps to ensure that the measures it proposes are compatible with the international rules and recommended standards developed or in the process of being developed for other marine areas beyond national jurisdiction. This includes: the consideration by the Legal and Technical Commission of a proposal to designate specific areas within the Pacific nodule province for the purposes of conserving representative habitats and biodiversity; the development of closer cooperative arrangements with the OSPAR Commission in connection with the coordination of management measures to safeguard biodiversity in the North-East Atlantic; and cooperation with the Convention on Biological Diversity in the development of criteria for the identification of ecologically and biologically significant areas and applicable standards for biodiversity-inclusive environmental impact assessment. At a more general level, one of the key objectives behind the Authority's work since its establishment has been to promote more open science within the marine scientific research communities working in the Area for the benefit of all mankind, by encouraging scientific research, especially on the impacts of mining activities on the environment, and ensuring the public availability of as much material as possible, thus laying a basis for developing States members of the Authority to better understand what is available and develop their capacity to participate in such science.

116. Over the period covered by the present report the Authority continued to enhance its cooperative relationship with the Secretariat of the Convention on Biological Diversity. In particular, the Authority participated in two important workshops convened by that organization and mandated by the Conference of the Parties to the Convention on Biological Diversity in their decision COP IX/20. These were an expert workshop on ecological criteria and biogeographic classification systems for marine areas in need of protection, held in Ottawa from 29 September to 2 October 2009, and a workshop on scientific and technical aspects relevant to environmental impact assessment in marine areas beyond national jurisdiction, held in Manila from 18 to 20 November 2009. The participation of the Authority ensured that, in developing recommendations, the workshops took into account the

particular legal and scientific characteristics of the Area and the particular measures under development by the Authority. At the same time, the outcomes of the workshops, as well as the other work undertaken by the Convention on Biological Diversity with respect to marine areas beyond national jurisdiction, are important in informing the work of the Legal and Technical Commission and in ensuring that measures taken with respect to the Area, and measures taken for other marine areas beyond national jurisdiction, are compatible.

117. The secretariat was also invited to participate as a member of the steering committee for the Global Ocean Biodiversity Initiative (GOBI), which began in late 2008 as a collaboration between the German Federal Agency for Nature Conservation (BfN), the International Union for Conservation of Nature (IUCN), the UNEP World Conservation Monitoring Centre (UNEP-WCMC), the Marine Conservation Biology Institute (MCBI), the Census of Marine Life (CoML), Ocean Biogeographic Information System (OBIS) and the Marine Geospatial Ecology Lab (MGEL) of Duke University. GOBI is an international partnership advancing the scientific basis for conserving biological diversity in the deep seas and open oceans. It aims to help countries, as well as regional and global organizations, to use existing and develop new data, tools and methodologies to identify ecologically significant areas in the oceans, with an initial focus on areas beyond national jurisdiction. GOBI is facilitated by IUCN with core support from BfN. The work under this initiative builds on the scientific criteria adopted by the parties to the Convention on Biological Diversity in 2008 to identify ecologically and biologically significant areas in the global marine realm. It ultimately aims to help countries to meet the goals adopted under the Convention on Biological Diversity and at the 2002 World Summit on Sustainable Development to reduce the rate of biodiversity loss by, inter alia, applying ecosystem approaches, and establishing representative marine protected area networks by 2012.

118. Projects and initiatives of this nature are important because they help to encourage cooperation and coordination between the different bodies with different responsibilities with respect to the Area, the high seas and activities carried out in these maritime spaces. Such cooperation and coordination is essential in order to ensure effective protection of the marine environment as a whole, because different bodies have different levels of expertise and regulatory power. Moreover, the nature of the activities themselves, whether prospecting and exploration for minerals, marine scientific research or other uses of the high seas, frequently overlap and, more importantly, the impacts of such activities on the marine environment also overlap. In this regard it is important to note that all of the mineral resources currently under consideration by the Authority have specific biodiversity associated with them that is thought to either facilitate their formation or concentration.

119. The cooperative efforts currently under way could all be strengthened further, including, for example, through the development of clearing-house mechanisms for the exchange of scientific data and information on capacity-building programmes such as the Endowment Fund. Two particular areas that require urgent attention are:

(a) Better standardization of data;

(b) Better databases and collaboration between databases.

120. Without standardization, it is not possible to compare studies and databases from different sources. The Authority has addressed standardization through its workshops and environmental recommendations, but there would be great benefits to standardizing data on a larger scale. The need for data standardization is exemplified by the discipline of taxonomy. In environments where there has been relatively little scientific study, for example, the deep sea beyond national jurisdiction, many new species are discovered on each research cruise. Often the scientists involved do not have sufficient resources to produce taxonomic descriptions of these new species, and so they are assigned to putative species. While these putative species are useful for individual studies, they cannot be used to make comparisons between studies without standardization.

121. Effective coordination requires that data is available to all. One way to achieve this is by establishing databases. These databases should include not only information about the environment, but also about who is actively investigating that environment, in order to facilitate further collaboration.

XVIII. DATABASE DEVELOPMENT

122. The secretariat maintains a Central Data Repository, which is comprised of the following core data sets: a sea floor massive sulphides database; a cobalt-rich ferromanganese crusts database; a polymetallic nodules database; a web-based geographical information system (GIS); the library catalogue; a bibliographic database; and a seabed patents database. The value of this programme is that it provides a location where all members of the Authority can have access to all non proprietary data which have been provided to the Authority. The Central Data Repository is also important as a source of information from which to create a baseline for the purposes of environmental impact assessment.

123. The Central Data Repository is continuously being updated to reflect the latest available data that contractors, researchers and owners are willing to share with the Authority. Obtaining data for the databases is an ongoing programme that requires continuous effort. This involves communication with active researchers and contractors and regular monitoring of published scientific literature. It is also essential to review the database structure and content on a regular basis to ensure that it meets the requirements of the Authority. In addition to identifying sources of data, quality control and quality assurance is also a major consideration. This includes addressing the issue of standardization of data so that information from different sources is comparable. The methods of standardization vary depending on the type of data and the compatibility of the sampling methods used. For example, in areas where multiple data entries have been provided by different sources for a single point, data averaging can be implemented as long as a common baseline is established for the data sets.

124. The sea floor massive sulphide database has recently been updated with additional data from M/S Ambrose Associates, Ottawa, Ontario, Canada. The updated database contains data on 680 occurrences, more than doubling the size of the original 2001 data set available in the Central Data Repository. These additional data include: 206 entries for polymetallic massive sulphides, compared to 112 in 2001; 156 entries for low-temperature hydrothermal mineralization, compared to 75 in 2001; 125 entries for hydrothermal plume signals, compared to 20 in 2001; and 102 entries for near-field metalliferous sediments, compared to 77 in 2001. The geochemical database for sulphides now has over 5,000 analyses covering more than 100 sites. The data have been compiled from more than 1,300 references. The database will be continually updated with new reports of sulphide occurrences as and when they are available.

125. One major project that the secretariat proposes to carry out during the 2011-2013 programme of work is to digitize and enter into the Central Data Repository all reports, maps and contractors' reviews from 2001 to date, and to generate a safe archive for these documents. This is a major task because the volume of reports is significant and data security must be taken into account.

126. The bibliographic database contains references to scientific papers that may be useful to anyone interested in the resources that the Authority regulates or the areas in which they occur. The database was initially created using free, open-source software. Sufficient interest was shown in the online database that it was decided to expand and enhance it. Initially, only scientific papers relevant to polymetallic nodules were included in the database, but it has now been expanded to include references concerning polymetallic sulphides and cobalt-rich crusts. The most recent update of the database content was conducted using a commercial computer programme that makes maintenance and analysis of the database more efficient. Therefore, work is currently under way to include any data records from the initial database into the new management software. Once migration to the new software is complete, options for better integration of the database within the Authority's website will be investigated. The initial, fully searchable database containing approximately 2,500 references along with their abstracts and links to the full text where available, will remain online until an alternative online user interface for the improved database is finalized. The database will require regular updating and will be expanded to include additional publications as appropriate.

127. The seabed patents database is at present contained on two CD-ROMs that are web-accessible. This searchable database was created more than 10 years ago and is slow and cumbersome, as an entire CD-ROM has

to be loaded to obtain a single search result. To facilitate a more functional system providing a suitable user experience, the database needs to be restructured and updated. This will be undertaken during 2010 and the database will thereafter be updated on an annual basis.

XIX. CONCLUDING REMARKS

128. A number of conclusions emerge from the material covered in the present report. The first, and most obvious, is that the pace at which commercial seabed mining is progressing continues to be extremely slow. It remains the case that the efforts of the current contractors with the Authority are primarily directed at long-term geological and environmental studies, financed through government funding by sponsoring or participating States, rather than commercially driven research and development. Investment in mining technology in particular remains at a very preliminary stage. In these circumstances, it appears unlikely that any of the present contractors will move to commercial exploitation of polymetallic nodules in the near future.

129. On the other hand, a second conclusion that may be drawn is that it is apparent that private sector investment in research on and prospecting for marine mineral deposits continues, both in areas under national jurisdiction and in the Area, indicating a strong interest in seabed minerals as a future source of metals. It is significant that several of these private sector interests have not only made use of the databases and other resources available at the Authority, but have also expressed interest in collaborating with the Authority through its workshops and other initiatives. This is an encouraging sign for the Authority and its member States, because it suggests that the commercial sector is developing confidence in the legal regime for the orderly development of the resources of the Area that has been put in place over the past 13 years. Thus, despite the disappointing results of the early precedents for a deep seabed mining industry, and the highly risk-averse nature of the mining sector in general, there is potential for a marine mineral mining industry to emerge as a genuine alternative to land-based mining.

130. In order to further encourage private sector participation in the development of the minerals of the Area, however, there is a need to begin to consider the sector of the mining code related to exploitation of polymetallic nodules. Investments that originate from the private sector will inevitably be guided largely by financial considerations, including the impacts of national taxation, payments to the Authority and debt financing. While efforts are being undertaken by the Legal and Technical Commission to guide contractors on the reporting of actual and direct exploration expenditures, it is clear that, in the end, these expenditures along with net revenues obtainable by the mining operation form part of a system that informs future contractors for exploitation of their returns.

131. There are a number of ways in which the Authority can usefully contribute to the future development of such an industry. One is to conduct an objective economic evaluation of the options for land and marine-based supplies of minerals. Another is to encourage the development of fair and equitable policies and regulations for exploitation of marine mineral both in the Area and in areas under national jurisdiction. In this regard, it will be recalled that in previous sessions of the Authority, several developing States members had called for assistance in the development of national legislation regarding exploration for and exploitation of marine minerals, noting that most States lacked such legislation and that the international regime formed a valuable precedent for appropriate regulatory measures that, among other things, ensured adequate protection for the marine environment. The current programme of regional sensitization seminars is a step in the right direction in terms of giving effect to these concerns.

Annex

Members of the Advisory Panel for the International Seabed Authority Endowment Fund for Marine Scientific Research in the Area

Alfredo García Castelblanco
Permanent Representative of Chile to the International Seabed Authority and Ambassador Extraordinary and Plenipotentiary of Chile to Jamaica

Chen Jinghua
Permanent Representative of China to the International Seabed Authority and Ambassador Extraordinary and Plenipotentiary of the People's Republic of China to Jamaica

Peter L. Oyedele
Permanent Representative of Nigeria to the International Seabed Authority and High Commissioner of Nigeria to Jamaica

Coy Roache
Deputy Permanent Representative of Jamaica to the International Seabed Authority

Elva G. Escobar
Universidad Nacional Autónoma de México (member of the Legal and Technical Commission)

Craig Smith
Department of Oceanography, University of Hawaii, Manoa, United States

Kaiser Gonçalves de Souza
Chief, Division of Marine Geology, Geological Survey of Brazil

Lindsay M. Parson
National Oceanography Centre, Southampton, United Kingdom (former member of the Legal and Technical Commission)

ISBA/16/A/5*- Report of the Finance Committee ISBA/16/C/8*

Date: 29 April 2010

1. During the sixteenth session of the International Seabed Authority, the Finance Committee held five meetings, on 26, 27, and 28 April 2010. The Committee re elected Hasjim Djalal as Chairman.

I. AGENDA

2. The Committee adopted the agenda as contained in document ISBA/16/FC/L.1.

II. BUDGET FOR THE FINANCIAL PERIOD 2011-2012

3. The Committee examined the proposed budget of the International Seabed Authority for the financial period 2011-2012 (ISBA/16/A/3-ISBA/16/C/2) in the amount of $13,448,200. In examining the budget, the Committee considered current global economic conditions, the overall increase in the proposed budget for 2011 2012 in relation to the budget for 2009-2010 and prevailing inflation rates. It also considered proposed

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* Reissued for technical reasons on 6 May 2010.

increases in costs related to staffing, communications, training, information technology, building management and conference services.

4. Following discussions in the Finance Committee, the Secretary-General revised the proposed budget by maintaining the same level of expenditure as had been approved in the previous budget period in respect of those items of expenditure over which the secretariat had some measure of control. The increases in the budget for the 2011-2012 period were exclusively for items of expenditure that were outside the control of the secretariat. As a result, the increase in the proposed budget for the financial period 2011-2012 was reduced from 5.6 to 3.98 per cent. The revised budget proposal for the financial period 2011-2012, in the amount of $13,014,700, is contained in document ISBA/16/A/3/Rev.1-ISBA/16/C/3/Rev.1.

5. The Committee, after careful consideration, decided to recommend for approval the proposed budget for the financial period 2011-2012 in the amount of $13,014,700. The Committee also decided to recommend that for the financial period 2011-2012, the Secretary-General be authorized to transfer between appropriation sections up to 20 per cent of the amount in each section. The Committee also noted that the estimated surplus of $250,000 for the 2009-2010 biennium would be applied to the 2011-2012 budget. The details of the approved budget are set out in annex I to the present report. The staffing table of the secretariat is contained in annex II.

III. WORKING CAPITAL FUND

6. The Committee adopted the recommendation in document ISBA/16/FC/4 in the amount of US$560,000 as new level of the Working Capital Fund. The Committee recommended that the contributions related to the increase of $105,327 should be spread over the next two bienniums.

IV. SCALE OF ASSESSMENTS FOR 2011-2012

7. The Committee recommended that, in line with article 160 (2) (e) of the United Nations Convention on the Law of the Sea, the scale of assessments relating to the administrative budget of the International Seabed Authority for the biennium 2011 and 2012 be based on the scale of assessments used for the regular budget of the United Nations for the biennium 2010 and 2011, taking into account the ceiling assessment rate of 22 per cent and the floor assessment rate of 0.01 per cent. The indicative assessed contributions for 2011 are set out in annex III.

8. The Committee considered the request by the Government of Japan to review the assessment of its contribution to the budget of the Authority. Due to Japan's economic situation its assessed rate based on the prorated contribution to the regular budget of the United Nations for 2010 would not exceed 22 per cent, as was the case in previous years, Japan's percentage contribution to the regular budget of the United Nations for 2010 amounted to 12.53 per cent resulting in a prorated contribution to the budget of the Authority of 16.587 per cent. Consequently, the Committee recommended that the rate of 16.587 per cent shall be applied in assessing Japan's contribution to the budget of the Authority for 2011-2012. In doing so, the Committee clarified that the ceiling rate of 22 per cent is not to be applied automatically to the highest contributor, but only in the circumstances that a member's prorated contribution to the budget of the Authority equals or exceeds this percentage.

V. AUDIT REPORT ON THE ACCOUNTS OF THE INTERNATIONAL SEABED AUTHORITY FOR 2009

9. The Committee considered the report of PriceWaterhouseCoopers on the audit of the accounts of the Authority for the year 2009. The Committee took note of the report and the opinion of the auditors that the financial statements of the Authority presented fairly, in all material aspects, the financial position of the Authority, as at 31 December 2009, and of its financial performance, and the cash flows for that year, in accordance with UN system accounting standards.

VI. ENDOWMENT FUND

10. The Committee took note of the balance of the Authority's Endowment Fund as at March 2010, in the amount of $3,338,409.

11. The Committee took note with appreciation of the letter of the Government of Germany accepting the transfer of the German application fee of $250,000 and the interest accrued so far to the Endowment Fund.

12. The Committee expressed its gratitude to the Government of the United Kingdom for the contribution of $15,253 made in March 2010.

13. The Committee recommended that an appeal be made by the Council for contributions to the Endowment Fund.

VII. VOLUNTARY TRUST FUND

14. The Committee took note of the balance of the Authority's Voluntary Trust Fund, in the amount of $40,435.

15. The Committee expressed its gratitude to the Government of China for the contribution of $20,000 made in December 2009.

16. The Committee noted that it had approved in 2008 the transfer of US$60,000 from the Endowment Fund to the Voluntary Trust Fund and recommended that the Secretary-General should suspend the transfer of the balance of US$40,000 until such time as necessary.

17. The Committee recommended that an appeal be made by the Council for contributions to the Voluntary Trust Fund.

VIII. NEW MEMBERS

18. The Committee considered document ISBA/16/FC/2, entitled "New members of the Authority". The Committee recommended that Dominican Republic and Chad, which had become members of the Authority during 2009, pay the amounts shown below as their contributions to the general administrative budget of the Authority for 2009 and 2010 as well as advances to the Working Capital Fund.

		United Nations scale of assessment (percentage)		*Adjusted International Seabed Authority scale (percentage)*		*Contributions to the general administrative budget (United States dollars)*		*Advances to the Working Capital Fund (United States dollars)*
New Member State	*Date membership began*	*2009*	*2010*	*2009*	*2010*	*2009*	*2010*	
Dominican Republic	9 August 2009	0.024	0.024	0.031	0.031	713	1 795	136
Chad	13 September 2009	0.001	0.001	0.001	0.001	175	572	1
Total						**888**	**2 367**	**137**

IX. OTHER MATTERS

19. The Committee expressed its concern about the outstanding contributions from members for prior periods (1998 to 2009) in the amount of $320,026 and requested that the Secretary-General continue, at his discretion, to obtain the amounts due.

20. The Committee again recommended that the Assembly urge observers attending and participating in the meetings of the Authority to make voluntary contributions to the budget of the Authority, considering that they benefit from the facilities of the Authority.

21. The Committee took note of the progress report on International Public Sector Accounting Standards (IPSAS) and requests the Secretary-General to keep the Committee informed on further developments with regard to the adoption by the United Nations Common System.

22. The Committee took note of the Secretary-General's reports on cost-saving measures, budget performance, main lines of research, organizational chart and countries in arrears, and requested him to produce similar reports next year.

23. The Committee took note of the Financial Rules promulgated on 1 December 2008.

X. RECOMMENDATIONS OF THE FINANCE COMMITTEE

24. In the light of the foregoing, the Committee recommends that the Council and the Assembly of the International Seabed Authority:

(a) Approve the budget for the financial period 2011-2012 in the amount of $13,014,700, as proposed by the Secretary-General;

(b) Authorize the Secretary-General to establish the scale of assessments for the biennium 2011 and 2012 based on the scale used for the regular budget of the expenses of the United Nations for 2010. In applying this, the Committee recommended that the rate of 16.587 per cent shall be applied in assessing Japan's contribution to the budget of the Authority for the 2011-2012 biennium. The ceiling of 22 per cent and the floor rate of 0.01 per cent remain the same as in previous bienniums;

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

(d) Recommends an increase in the Working Capital Fund as set out in paragraph 6; and

(e) Take note with appreciation of the efforts being made by the Secretary-General to effect savings in the budget of the Authority during the 2009-2010 financial period.

Annexes I, II and III
[omitted]

ISBA/16/A/9 Decision of the Assembly of the International Seabed Authority Concerning the Staff Regulations of the Authority

Date: 6 May 2010
129th meeting [ISBA/16/A/L.2]

The Assembly of the International Seabed Authority, taking into account the recommendation of the Council,[1]

(a) *Approves* the revisions to the staff regulations of the Authority as contained in the annex to the present document;

Annex

Amendments to the Staff Regulations of the International Seabed Authority

In Staff Regulation 1.1 (e) there shall be substituted the following:

The Staff Regulations apply to all staff at all levels holding appointments under the Staff Rules.

In Staff Regulation 6.2 there shall be substituted the following paragraph:

The Secretary-General shall establish a scheme of social security for the staff, including provisions for health protection, sick leave, maternity and paternity leave, and reasonable compensation in the event of illness, accident or death attributable to the performance of official duties on behalf of the Authority. The Secretary-General may make group life insurance available to staff members on a voluntary basis.

In Staff Regulation 10.2 there shall be substituted the following paragraph:

The Secretary-General may impose disciplinary measures on staff members whose conduct is unsatisfactory. The Secretary-General may summarily dismiss a member of the staff for serious misconduct. Sexual exploitation and sexual abuse constitute serious misconduct.

In Staff Regulation 11.1 there shall be substituted the following paragraph:

There shall be a two-tier formal system of administration of justice.

In Staff Regulation 11.2 there shall be substituted the following paragraph:

The Secretary-General shall establish a neutral first instance process with staff participation to take a decision upon any appeal by staff members against an administrative decision alleging the non-observance of their terms of appointment, including all pertinent regulations and rules.

In Article XI of the Staff Regulations, there shall be inserted the following Regulation 11.3:

The United Nations Appeals Tribunal shall, under conditions prescribed in its statute, hear and pass judgment upon applications from staff members alleging non-observance of their terms of appointment, including all pertinent regulations and rules.

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[1] ISBA/16/C/9

ISBA/16/A/10 Decision of the Assembly of the International Seabed Authority relating to the budget of the Authority for the financial period 2011 to 2012

Date: 6 May 2010
129th meeting [ISBA/16/A/L.3]

The *Assembly of the International Seabed Authority*, *taking into account the recommendations of the Council*,[1]

1. *Adopts* the budget of the Authority for the financial period 2011-2012 in the amount of $13,014,700;

2. *Authorizes* the Secretary-General to establish the scale of assessments for 2011 and 2012 based on the scale used for the regular budget of the United Nations for 2010, taking into account that the maximum assessment rate will be 22 per cent and the minimum rate 0.01 per cent and that the rate of 16.587 per cent shall be applied in assessing Japan's contribution to the budget of the Authority for 2011 and 2012;

3. *Also authorizes* the Secretary-General, for 2011 and 2012, to transfer between appropriation sections up to 20 per cent of the amount in each section;

4. *Urges* the members of the Authority to pay their assessed contributions to the budget on time and in full;

5. *Decides* to increase the level of the Working Capital Fund to $560,000 as set out in paragraph 6 of the report of the Finance Committee (ISBA/16/A/5-ISBA/16/C/8) on the understanding that such additional advances to the Working Capital Fund as may be necessary will be spread over the next two financial periods;

6. *Appeals* to all members of the Authority to contribute to the International Seabed Authority Endowment Fund for Marine Scientific Research and to the Voluntary Trust Fund;

7. *Invites* observers attending and participating in the meetings of the Authority to make voluntary contributions to the budget of the Authority, considering that they benefit from the facilities of the Authority.

ISBA/16/A/11 Decision of the Assembly of the International Seabed Authority relating to the election to fill the vacancies on the Council of the Authority, in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea

Date: 7 May 2010
130th meeting [ISBA/16/A/L.4]

The *Assembly of the International Seabed Authority*,

Recalling that, in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea,

> "Elections shall take place at regular sessions of the Assembly. Each member of the Council shall be elected for four years",

1. ISBA/16/C/10

Elects the following to fill the vacancies in the Council of the International Seabed Authority for a four-year period as from 1 January 2011, subject to the understandings reached in the regional and interest groups:[1]

Group A

Italy [2]
Russian Federation

Group B

Republic of Korea
France
Germany

Group C

Australia
Indonesia[3]

Group D

Fiji
Jamaica
Egypt

Group E

Viet Nam
Qatar [4]
Cameroon
Côte d'Ivoire
Nigeria
Chile [5]
Mexico

ISBA/16/A/12/ Rev. 1 Decision of the Assembly of the International Seabed Authority relating to the regulations on prospecting and exploration for polymetallic sulphides in the Area

Date: 15 November 2010
130th meeting [ISBA/16/A/L.5]

The Assembly of the International Seabed Authority,

Having considered the Regulations on prospecting and exploration for polymetallic sulphides in the Area, as provisionally adopted by the Council at its 161st meeting, on 6 May 2010 (ISBA/16/C/L.5),

Approves the Regulations on prospecting and exploration for polymetallic sulphides in the Area as contained in the annex to the present document.

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1. The agreed allocation of seats on the Council is 10 seats to the African Group, 9 seats to the Asian Group, 8 seats to the Western European and Others Group, 7 seats to the Latin American and Caribbean Group and 3 seats to the Eastern European Group. Since the total number of seats allocated according to that formula is 37, it is understood that, in accordance with the understanding reached in 1996 (ISBA/A/L.8), each regional group other than the Eastern European Group will relinquish a seat in rotation. The regional group which relinquishes a seat will have the right to designate a member of that group to participate in the deliberations of the Council without the right to vote during the period the regional group relinquishes the seat.
2. It was agreed that Italy would relinquish its seat in Group A in favour of the United States if the United States became a member of the Authority; this does not prejudice the position of any country with respect to any intervening election to the Council.
3. Indonesia is elected for a four-year term as a member of Group C with the understanding that it will relinquish its seat to Chile after two years and will take up the seat in Group E that was previously occupied by Chile for the remainder of the four-year term.
4. Qatar is elected for a four-year term as a member of Group E with the understanding that it will relinquish its seat to Sri Lanka after two years for the remainder of the four-year term.
5. Chile is elected for a four-year term in Group E with the understanding that it will relinquish its seat to Indonesia after two years for the remainder of the four-year term.

Annex

Regulations on prospecting and exploration for polymetallic sulphides in the Area

Preamble

In accordance with the United Nations Convention on the Law of the Sea ("the Convention"), the seabed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, on whose behalf the International Seabed Authority acts. The objective of this set of Regulations is to provide for prospecting and exploration for polymetallic sulphides.

Part I
Introduction

Regulation 1
Use of terms and scope

1. Terms used in the Convention shall have the same meaning in these Regulations.

2. In accordance with 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"), the provisions of the Agreement and Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 shall be interpreted and applied together as a single instrument. These Regulations and references in these Regulations to the Convention are to be interpreted and applied accordingly.

3. For the purposes of these Regulations:

(a) "exploitation" means the recovery for commercial purposes of polymetallic sulphides in the Area and the extraction of minerals therefrom, including the construction and operation of mining, processing and transportation systems, for the production and marketing of metals;

(b) "exploration" means searching for deposits of polymetallic sulphides in the Area with exclusive rights, the analysis of such deposits, the use and testing of recovery systems and equipment, processing facilities and transportation systems, and the carrying out of studies of the environmental, technical, economic, commercial and other appropriate factors that must be taken into account in exploitation;

(c) "marine environment" includes the physical, chemical, geological and biological components, conditions and factors which interact and determine the productivity, state, condition and quality of the marine ecosystem, the waters of the seas and oceans and the airspace above those waters, as well as the seabed and ocean floor and subsoil thereof;

(d) "polymetallic sulphides" means hydrothermally formed deposits of sulphides and accompanying mineral resources in the Area which contain concentrations of metals including, inter alia, copper, lead, zinc, gold and silver;

(e) "prospecting" means the search for deposits of polymetallic sulphides in the Area, including estimation of the composition, size and distribution of deposits of polymetallic sulphides and their economic values, without any exclusive rights;

(f) "serious harm to the marine environment" means any effect from activities in the Area on the marine environment which represents a significant adverse change in the marine environment determined according to the rules, regulations and procedures adopted by the Authority on the basis of internationally recognized standards and practices.

4. These Regulations shall not in any way affect the freedom of scientific research, pursuant to article 87 of the Convention, or the right to conduct marine scientific research in the Area pursuant to articles 143 and 256 of the Convention. Nothing in these Regulations shall be construed in such a way as to restrict the exercise by States of the freedom of the high seas as reflected in article 87 of the Convention.

5. These Regulations may be supplemented by further rules, regulations and procedures, in particular on the protection and preservation of the marine environment. These Regulations shall be subject to the provisions of the Convention and the Agreement and other rules of international law not incompatible with the Convention.

Part II
Prospecting

Regulation 2
Prospecting

1. Prospecting shall be conducted in accordance with the Convention and these Regulations and may commence only after the prospector has been informed by the Secretary-General that its notification has been recorded pursuant to regulation 4, paragraph 2.

2. Prospectors and the Secretary-General shall apply a precautionary approach, as reflected in principle 15 of the Rio Declaration.[1] Prospecting shall not be undertaken if substantial evidence indicates the risk of serious harm to the marine environment.

3. Prospecting shall not be undertaken in an area covered by an approved plan of work for exploration for polymetallic sulphides or in a reserved area; nor may there be prospecting in an area which the Council has disapproved for exploitation because of the risk of serious harm to the marine environment.

4. Prospecting shall not confer on the prospector any rights with respect to resources. A prospector may, however, recover a reasonable quantity of minerals, being the quantity necessary for testing and not for commercial use.

5. There shall be no time limit on prospecting, except that prospecting in a particular area shall cease upon written notification to the prospector by the Secretary-General that a plan of work for exploration has been approved with regard to that area.

6. Prospecting may be conducted simultaneously by more than one prospector in the same area or areas.

Regulation 3
Notification of prospecting

1. A proposed prospector shall notify the Authority of its intention to engage in prospecting.

2. Each notification of prospecting shall be in the form prescribed in annex 1 to these Regulations, addressed to the Secretary-General, and shall conform to the requirements of these Regulations.

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1. *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1991* (United Nations publication, Sales No. E.91.1.8 and corrigenda), vol. 1: *Resolutions adopted by the Conference*, resolution 1, annex 1.

3. Each notification shall be submitted:

(a) In the case of a State, by the authority designated for that purpose by it;

(b) In the case of an entity, by its designated representative;

(c) In the case of the Enterprise, by its competent authority.

4. Each notification shall be in one of the languages of the Authority and shall contain:

(a) The name, nationality and address of the proposed prospector and its designated representative;

(b) The coordinates of the broad area or areas within which prospecting is to be conducted, in accordance with the most recent generally accepted international standard used by the Authority;

(c) A general description of the prospecting programme, including the proposed date of commencement and its approximate duration;

(d) A satisfactory written undertaking that the proposed prospector will:

(i) Comply with the Convention and the relevant rules, regulations and procedures of the Authority concerning:

a. Cooperation in the training programmes in connection with marine scientific research and transfer of technology referred to in articles 143 and 144 of the Convention; and

b. Protection and preservation of the marine environment;

(ii) Accept verification by the Authority of compliance therewith; and

(iii) Make available to the Authority, as far as practicable, such data as may be relevant to the protection and preservation of the marine environment.

Regulation 4
Consideration of notifications

1. The Secretary-General shall acknowledge in writing receipt of each notification submitted under regulation 3, specifying the date of receipt.

2. The Secretary-General shall review and act on the notification within 45 days of its receipt. If the notification conforms with the requirements of the Convention and these Regulations, the Secretary-General shall record the particulars of the notification in a register maintained for that purpose and shall inform the prospector in writing that the notification has been so recorded.

3. The Secretary-General shall, within 45 days of receipt of the notification, inform the proposed prospector in writing if the notification includes any part of an area included in an approved plan of work for exploration or exploitation of any category of resources, or any part of a reserved area, or any part of an area which has been disapproved by the Council for exploitation because of the risk of serious harm to the marine environment, or if the written undertaking is not satisfactory, and shall provide the proposed prospector with a written statement of reasons. In such cases, the proposed prospector may, within 90 days, submit an amended notification. The Secretary-General shall, within 45 days, review and act upon such amended notification.

4. A prospector shall inform the Secretary-General in writing of any change in the information contained in the notification.

5. The Secretary-General shall not release any particulars contained in the notification except with the written consent of the prospector. The Secretary-General shall, however, from time to time inform all members of the Authority of the identity of prospectors and the general areas in which prospecting is being conducted.

Regulation 5
Protection and preservation of the marine environment during prospecting

1. Each prospector shall take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from prospecting, as far as reasonably possible, applying a precautionary approach and best environmental practices. In particular, each prospector shall minimize or eliminate:

(a) Adverse environmental impacts from prospecting; and

(b) Actual or potential conflicts or interference with existing or planned marine scientific research activities, in accordance with the relevant future guidelines in this regard.

2. Prospectors shall cooperate with the Authority in the establishment and implementation of programmes for monitoring and evaluating the potential impacts of the exploration for and exploitation of polymetallic sulphides on the marine environment.

3. A prospector shall immediately notify the Secretary-General in writing, using the most effective means, of any incident arising from prospecting which has caused, is causing or poses a threat of serious harm to the marine environment. Upon receipt of such notification the Secretary-General shall act in a manner consistent with regulation 35.

Regulation 6
Annual report

1. A prospector shall, within 90 days of the end of each calendar year, submit a report to the Authority on the status of prospecting. Such reports shall be submitted by the Secretary-General to the Legal and Technical Commission. Each such report shall contain:

(a) A general description of the status of prospecting and of the results obtained;

(b) Information on compliance with the undertakings referred to in regulation 3, paragraph 4 (d); and

(c) Information on adherence to the relevant guidelines in this regard.

2. If the prospector intends to claim expenditures for prospecting as part of the development costs incurred prior to the commencement of commercial production, the prospector shall submit an annual statement, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, of the actual and direct expenditures incurred by the prospector in carrying out prospecting.

Regulation 7
Confidentiality of data and information from prospecting contained in the annual report

1. The Secretary-General shall ensure the confidentiality of all data and information contained in the reports submitted under regulation 6 applying mutatis mutandis the provisions of regulations 38 and 39, provided that data and information relating to the protection and preservation of the marine environment, in particular those from environmental monitoring programmes, shall not be considered confidential. The prospector may request that such data not be disclosed for up to three years following the date of their submission.

2. The Secretary-General may, at any time, with the consent of the prospector concerned, release data and information relating to prospecting in an area in respect of which a notification has been submitted. If, after having made reasonable efforts for at least two years, the Secretary-General determines that the prospector no longer exists or cannot be located, the Secretary-General may release such data and information.

Regulation 8
Objects of an archaeological or historical nature

A prospector shall immediately notify the Secretary-General in writing of any finding in the Area of an object of actual or potential archaeological or historical nature and its location. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Part III
Applications for approval of plans of work for exploration in the form of contracts

Section 1
General provisions

Regulation 9
General

Subject to the provisions of the Convention, the following may apply to the Authority for approval of plans of work for exploration:

(a) The Enterprise, on its own behalf or in a joint arrangement;

(b) States Parties, State enterprises or natural or juridical persons which possess the nationality of States or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing which meets the requirements of these Regulations.

Section 2
Content of applications

Regulation 10
Form of applications

1. Each application for approval of a plan of work for exploration shall be in the form prescribed in annex 2 to these Regulations, shall be addressed to the Secretary-General, and shall conform to the requirements of these Regulations.

2. Each application shall be submitted:

(a) In the case of a State, by the authority designated for that purpose by it;

(b) In the case of an entity, by its designated representative or the authority designated for that purpose by the sponsoring State or States; and

(c) In the case of the Enterprise, by its competent authority.

3. Each application by a State enterprise or one of the entities referred to in subparagraph (b) of regulation 9 shall also contain:

(a) Sufficient information to determine the nationality of the applicant or the identity of the State or States by which, or by whose nationals, the applicant is effectively controlled; and

(b) The principal place of business or domicile and, if applicable, place of registration of the applicant.

4. Each application submitted by a partnership or consortium of entities shall contain the required information in respect of each member of the partnership or consortium.

Regulation 11
Certificate of sponsorship

1. Each application by a State enterprise or one of the entities referred to in subparagraph (b) of regulation 9 shall be accompanied by a certificate of sponsorship issued by the State of which it is a national or by which or by whose nationals it is effectively controlled. If the applicant has more than one nationality, as in the case of a partnership or consortium of entities from more than one State, each State involved shall issue a certificate of sponsorship.

2. Where the applicant has the nationality of one State but is effectively controlled by another State or its nationals, each State involved shall issue a certificate of sponsorship.

3. Each certificate of sponsorship shall be duly signed on behalf of the State by which it is submitted, and shall contain:

(a) The name of the applicant;

(b) The name of the sponsoring State;

(c) A statement that the applicant is:

(i) A national of the sponsoring State; or

(ii) Subject to the effective control of the sponsoring State or its nationals;

(d) A statement by the sponsoring State that it sponsors the applicant;

(e) The date of deposit by the sponsoring State of its instrument of ratification of, or accession or succession to, the Convention;

(f) A declaration that the sponsoring State assumes responsibility in accordance with article 139, article 153, paragraph 4, and annex III, article 4, paragraph 4, of the Convention.

4. States or entities in a joint arrangement with the Enterprise shall also comply with this regulation.

Regulation 12
Total area covered by the application

1. For the purposes of these Regulations, a “polymetallic sulphide block” means a cell of a grid as provided by the Authority, which shall be approximately 10 kilometres by 10 kilometres and no greater than 100 square kilometres.

2. The area covered by each application for approval of a plan of work for exploration for polymetallic sulphides shall be comprised of not more than 100 polymetallic sulphide blocks which shall be arranged by the applicant in at least five clusters, as set out in paragraph 3 below.

3. Each cluster of polymetallic sulphide blocks shall contain at least five contiguous blocks. Two such blocks that touch at any point shall be considered to be contiguous. Clusters of polymetallic sulphide blocks need not be

contiguous but shall be proximate and confined within a rectangular area not exceeding 300,000 square kilometres in size and where the longest side does not exceed 1,000 kilometres in length.

4. Notwithstanding the provisions in paragraph 2 above, where an applicant has elected to contribute a reserved area to carry out activities pursuant to article 9 of annex III to the Convention, in accordance with regulation 17, the total area covered by an application shall not exceed 200 polymetallic sulphide blocks. Such blocks shall be arranged in two groups of equal estimated commercial value and each such group of polymetallic sulphide blocks shall be arranged by the applicant in clusters, as set out in paragraph 3 above.

Regulation 13
Financial and technical capabilities

1. Each application for approval of a plan of work for exploration shall contain specific and sufficient information to enable the Council to determine whether the applicant is financially and technically capable of carrying out the proposed plan of work for exploration and of fulfilling its financial obligations to the Authority.

2. An application for approval of a plan of work for exploration by the Enterprise shall include a statement by its competent authority certifying that the Enterprise has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration.

3. An application for approval of a plan of work for exploration by a State or a State enterprise shall include a statement by the State or the sponsoring State certifying that the applicant has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration.

4. An application for approval of a plan of work for exploration by an entity shall include copies of its audited financial statements, including balance sheets and profit-and-loss statements, for the most recent three years, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants; and

(a) If the applicant is a newly organized entity and a certified balance sheet is not available, a pro forma balance sheet certified by an appropriate official of the applicant;

(b) If the applicant is a subsidiary of another entity, copies of such financial statements of that entity and a statement from that entity, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, that the applicant will have the financial resources to carry out the plan of work for exploration;

(c) If the applicant is controlled by a State or a State enterprise, a statement from the State or State enterprise certifying that the applicant will have the financial resources to carry out the plan of work for exploration.

5. Where an applicant referred to in paragraph 4 intends to finance the proposed plan of work for exploration by borrowings, its application shall include the amount of such borrowings, the repayment period and the interest rate.

6. Each application shall include:

(a) A general description of the applicant's previous experience, knowledge, skills, technical qualifications and expertise relevant to the proposed plan of work for exploration;

(b) A general description of the equipment and methods expected to be used in carrying out the proposed plan of work for exploration and other relevant non-proprietary information about the characteristics of such technology;

(c) A general description of the applicant's financial and technical capability to respond to any incident or activity which causes serious harm to the marine environment.

7. Where the applicant is a partnership or consortium of entities in a joint arrangement, each member of the partnership or consortium shall provide the information required by this regulation.

Regulation 14
Previous contracts with the Authority

Where the applicant or, in the case of an application by a partnership or consortium of entities in a joint arrangement, any member of the partnership or consortium, has previously been awarded any contract with the Authority, the application shall include:

(a) The date of the previous contract or contracts;

(b) The date, reference number and title of each report submitted to the Authority in connection with the contract or contracts; and

(c) The date of termination of the contract or contracts, if applicable.

Regulation 15
Undertakings

Each applicant, including the Enterprise, shall, as part of its application for approval of a plan of work for exploration, provide a written undertaking to the Authority that it will:

(a) Accept as enforceable and comply with the applicable obligations created by the provisions of the Convention and the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and the terms of its contracts with the Authority;

(b) Accept control by the Authority of activities in the Area, as authorized by the Convention; and

(c) Provide the Authority with a written assurance that its obligations under the contract will be fulfilled in good faith.

Regulation 16
Applicant's election of a reserved area contribution or equity interest in a joint venture arrangement

Each applicant shall, in the application, elect either to:

(a) Contribute a reserved area to carry out activities pursuant to Annex III, article 9, of the Convention, in accordance with regulation 17; or

(b) Offer an equity interest in a joint venture arrangement in accordance with regulation 19.

Regulation 17
Data and information to be submitted before the designation of a reserved area

1. Where the applicant elects to contribute a reserved area to carry out activities pursuant to article 9 of annex III to the Convention, the area covered by the application shall be sufficiently large and of sufficient estimated commercial value to allow two mining operations and shall be configured by the applicant in accordance with regulation 12, paragraph 4.

2. Each such application shall contain sufficient data and information, as prescribed in section II of annex 2 to these Regulations, with respect to the area under application to enable the Council, on the recommendation of the Legal and Technical Commission, to designate a reserved area based on the estimated commercial value of each part. Such data and information shall consist of data available to the applicant with respect to both parts of the area under application, including the data used to determine their commercial value.

3. The Council, on the basis of the data and information submitted by the applicant pursuant to section II of annex 2 to these Regulations, if found satisfactory, and taking into account the recommendation of the Legal and Technical Commission, shall designate the part of the area under application which is to be a reserved area. The area so designated shall become a reserved area as soon as the plan of work for exploration for the non-reserved area is approved and the contract is signed. If the Council determines that additional information, consistent with these Regulations and annex 2, is needed to designate the reserved area, it shall refer the matter back to the Commission for further consideration, specifying the additional information required.

4. Once the plan of work for exploration is approved and a contract has been issued, the data and information transferred to the Authority by the applicant in respect of the reserved area may be disclosed by the Authority in accordance with article 14, paragraph 3, of annex III to the Convention.

Regulation 18
Applications for approval of plans of work with respect to a reserved area

1. Any State which is a developing State or any natural or juridical person sponsored by it and effectively controlled by it or by any other developing State, or any group of the foregoing, may notify the Authority that it wishes to submit a plan of work for exploration with respect to a reserved area. The Secretary-General shall forward such notification to the Enterprise, which shall inform the Secretary-General in writing within six months whether or not it intends to carry out activities in that area. If the Enterprise intends to carry out activities in that area, it shall, pursuant to paragraph 4, also inform in writing the contractor whose application for approval of a plan of work for exploration originally included that area.

2. An application for approval of a plan of work for exploration in respect of a reserved area may be submitted at any time after such an area becomes available following a decision by the Enterprise that it does not intend to carry out activities in that area or where the Enterprise has not, within six months of the notification by the Secretary-General, either taken a decision on whether it intends to carry out activities in that area or notified the Secretary-General in writing that it is engaged in discussions regarding a potential joint venture. In the latter instance, the Enterprise shall have one year from the date of such notification in which to decide whether to conduct activities in that area.

3. If the Enterprise or a developing State or one of the entities referred to in paragraph 1 does not submit an application for approval of a plan of work for exploration for activities in a reserved area within 15 years of the commencement by the Enterprise of its functions independent of the Secretariat of the Authority or within 15 years of the date on which that area is reserved for the Authority, whichever is the later, the contractor whose application for approval of a plan of work for exploration originally included that area shall be entitled to apply for a plan of work for exploration for that area provided it offers in good faith to include the Enterprise as a joint-venture partner.

4. A contractor has the right of first refusal to enter into a joint venture arrangement with the Enterprise for exploration of the area which was included in its application for approval of a plan of work for exploration and which was designated by the Council as a reserved area.

Regulation 19
Equity interest in a joint venture arrangement

1. Where the applicant elects to offer an equity interest in a joint venture arrangement, it shall submit data and information in accordance with regulation 20. The area to be allocated to the applicant shall be subject to the provisions of regulation 27.

2. The joint venture arrangement, which shall take effect at the time the applicant enters into a contract for exploitation, shall include the following:

(a) The Enterprise shall obtain a minimum of 20 per cent of the equity participation in the joint venture arrangement on the following basis:

(i) Half of such equity participation shall be obtained without payment, directly or indirectly, to the applicant and shall be treated *pari passu* for all purposes with the equity participation of the applicant;

(ii) The remainder of such equity participation shall be treated *pari passu* for all purposes with the equity participation of the applicant except that the Enterprise shall not receive any profit distribution with respect to such participation until the applicant has recovered its total equity participation in the joint venture arrangement;

(b) Notwithstanding subparagraph (a), the applicant shall nevertheless offer the Enterprise the opportunity to purchase a further thirty per cent of the equity in the joint venture arrangement, or such lesser percentage as the Enterprise may elect to purchase, on the basis of *pari passu* treatment with the applicant for all purposes;[2]

(c) Except as specifically provided in the agreement between the applicant and the Enterprise, the Enterprise shall not by reason of its equity participation be otherwise obligated to provide funds or credits or issue guarantees or otherwise accept any financial liability whatsoever for or on behalf of the joint venture arrangement, nor shall the Enterprise be required to subscribe for additional equity participation so as to maintain its proportionate participation in the joint venture arrangement.

Regulation 20
Data and information to be submitted for approval of the plan of work for exploration

1. Each applicant shall submit, with a view to receiving approval of the plan of work for exploration in the form of a contract, the following information:

(a) A general description and a schedule of the proposed exploration programme, including the programme of activities for the immediate five-year period, such as studies to be undertaken in respect of the environmental, technical, economic and other appropriate factors that must be taken into account in exploration;

(b) A description of the programme for oceanographic and environmental baseline studies in accordance with these Regulations and any environmental rules, regulations and procedures established by the Authority that would enable an assessment of the potential environmental impact including, but not restricted to, the impact on biodiversity, of the proposed exploration activities, taking into account any recommendations issued by the Legal and Technical Commission;

(c) A preliminary assessment of the possible impact of the proposed exploration activities on the marine environment;

(d) A description of proposed measures for the prevention, reduction and control of pollution and other hazards, as well as possible impacts, to the marine environment;

(e) Data necessary for the Council to make the determination it is required to make in accordance with regulation 13, paragraph 1; and

(f) A schedule of anticipated yearly expenditures in respect of the programme of activities for the immediate five-year period.

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2. The terms and conditions upon which such equality participation may be obtained would need to be further elaborated.

2. Where the applicant elects to contribute a reserved area, the data and information relating to such area shall be transferred to the Authority by the applicant after the Council has designated the reserved area in accordance with regulation 17, paragraph 3.

3. Where the applicant elects to offer an equity interest in a joint venture arrangement, the data and information relating to such area shall be transferred to the Authority by the applicant at the time of the election.

Section 3
Fees

Regulation 21
Fee for applications

1. The fee for processing a plan of work for exploration for polymetallic sulphides shall be:

(a) A fixed fee of 500,000 United States dollars or its equivalent in a freely convertible currency, payable by the applicant at the time of submitting an application; or

(b) At the election of the applicant, a fixed fee of 50,000 United States dollars or its equivalent in a freely convertible currency, payable by the applicant at the time of submitting an application, and an annual fee calculated as set out in paragraph 2.

2. The annual fee shall be calculated as follows:

(i) 5 United States dollars multiplied by the area factor from the date of the first anniversary of the contract;

(ii) 10 United States dollars multiplied by the area factor from the date of the first relinquishment in accordance with regulation 27(2); and

(iii) 20 United States dollars multiplied by the area factor from the date of the second relinquishment in accordance with regulation 27(3).

3. The “Area Factor” means the number of square kilometres comprised in the exploration area at the date upon which the periodic payment in question becomes due.

4. Upon notification by the Secretary-General that the amount of the fee has been insufficient to cover the administrative costs incurred by the Authority in processing an application, the fee set out in paragraph 1 (a) of this regulation shall be reviewed by the Council.

5. If the administrative costs incurred by the Authority in processing an application are less than the fixed amount, the Authority shall refund the difference to the applicant.

Section 4
Processing of applications

Regulation 22
Receipt, acknowledgement and safe custody of applications

The Secretary-General shall:

(a) Acknowledge in writing within 30 days receipt of every application for approval of a plan of work for exploration submitted under this Part, specifying the date of receipt;

(b) Place the application together with the attachments and annexes thereto in safe custody and ensure the confidentiality of all confidential data and information contained in the application; and

(c) Notify the members of the Authority of the receipt of such application and circulate to them information of a general nature which is not confidential regarding the application.

Regulation 23
Consideration by the Legal and Technical Commission

1. Upon receipt of an application for approval of a plan of work for exploration, the Secretary-General shall notify the members of the Legal and Technical Commission and place consideration of the application as an item on the agenda for the next meeting of the Commission. The Commission shall only consider applications in respect of which notification and information has been circulated by the Secretary-General in accordance with regulation 22 (c) at least 30 days prior to the commencement of the meeting of the Commission at which they are to be considered.

2. The Commission shall examine applications in the order in which they are received.

3. The Commission shall determine if the applicant:

(a) Has complied with the provisions of these Regulations;

(b) Has given the undertakings and assurances specified in regulation 15;

(c) Possesses the financial and technical capability to carry out the proposed plan of work for exploration and has provided details as to its ability to comply promptly with emergency orders; and

(d) Has satisfactorily discharged its obligations in relation to any previous contract with the Authority.

4. The Commission shall, in accordance with the requirements set forth in these Regulations and its procedures, determine whether the proposed plan of work for exploration will:

(a) Provide for effective protection of human health and safety;

(b) Provide for effective protection and preservation of the marine environment including, but not restricted to, the impact on biodiversity;

(c) Ensure that installations are not established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity.

5. If the Commission makes the determinations specified in paragraph 3 and determines that the proposed plan of work for exploration meets the requirements of paragraph 4, the Commission shall recommend approval of the plan of work for exploration to the Council.

6. The Commission shall not recommend approval of the plan of work for exploration if part or all of the area covered by the proposed plan of work for exploration is included in:

(a) A plan of work for exploration approved by the Council for polymetallic sulphides; or

(b) A plan of work approved by the Council for exploration for or exploitation of other resources if the proposed plan of work for exploration for polymetallic sulphides might cause undue interference with activities under such approved plan of work for other resources; or

(c) An area disapproved for exploitation by the Council in cases where substantial evidence indicates the risk of serious harm to the marine environment.

7. The Legal and Technical Commission may recommend approval of a plan of work if it determines that such approval would not permit a State Party or entities sponsored by it to monopolize the conduct of activities in the Area with regard to polymetallic sulphides or to preclude other States Parties from activities in the Area with regard to polymetallic sulphides.

8. Except in the case of applications by the Enterprise, on its own behalf or in a joint venture, and applications under regulation 18, the Commission shall not recommend approval of the plan of work for exploration if part or all of the area covered by the proposed plan of work for exploration is included in a reserved area or an area designated by the Council to be a reserved area.

9. If the Commission finds that an application does not comply with these Regulations, it shall notify the applicant in writing, through the Secretary-General, indicating the reasons. The applicant may, within 45 days of such notification, amend its application. If the Commission after further consideration is of the view that it should not recommend approval of the plan of work for exploration, it shall so inform the applicant and provide the applicant with a further opportunity to make representations within 30 days of such information. The Commission shall consider any such representations made by the applicant in preparing its report and recommendation to the Council.

10. In considering a proposed plan of work for exploration, the Commission shall have regard to the principles, policies and objectives relating to activities in the Area as provided for in part XI and annex III of the Convention and the Agreement.

11. The Commission shall consider applications expeditiously and shall submit its report and recommendations to the Council on the designation of the areas and on the plan of work for exploration at the first possible opportunity, taking into account the schedule of meetings of the Authority.

12. In discharging its duties, the Commission shall apply these Regulations and the rules, regulations and procedures of the Authority in a uniform and non-discriminatory manner.

Regulation 24
Consideration and approval of plans of work for exploration by the Council

The Council shall consider the reports and recommendations of the Commission relating to approval of plans of work for exploration in accordance with paragraphs 11 and 12 of section 3 of the annex to the Agreement.

Part IV
Contracts for exploration

Regulation 25
The contract

1. After a plan of work for exploration has been approved by the Council, it shall be prepared in the form of a contract between the Authority and the applicant as prescribed in annex 3 to these Regulations. Each contract shall incorporate the standard clauses set out in annex 4 in effect at the date of entry into force of the contract.

2. The contract shall be signed by the Secretary-General on behalf of the Authority and by the applicant. The Secretary-General shall notify all members of the Authority in writing of the conclusion of each contract.

Regulation 26
Rights of the contractor

1. The contractor shall have the exclusive right to explore an area covered by a plan of work for exploration in respect of polymetallic sulphides. The Authority shall ensure that no other entity operates in the same area for other resources in a manner that might interfere with the operations of the contractor.

2. A contractor who has an approved plan of work for exploration only shall have a preference and a priority among applicants submitting plans of work for exploitation of the same area and resources. Such preference or priority may be withdrawn by the Council if the contractor has failed to comply with the requirements of its approved plan of work for exploration within the time period specified in a written notice or notices from the Council to the contractor indicating which requirements have not been complied with by the contractor. The time period specified in any such notice shall not be unreasonable. The contractor shall be accorded a reasonable opportunity to be heard before the withdrawal of such preference or priority becomes final. The Council shall provide the reasons for its proposed withdrawal of preference or priority and shall consider any contractor's response. The decision of the Council shall take account of that response and shall be based on substantial evidence.

3. A withdrawal of preference or priority shall not become effective until the contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to part XI, section 5, of the Convention.

Regulation 27
Size of area and relinquishment

1. The contractor shall relinquish the area allocated to it in accordance with paragraph 2 of this regulation. Areas to be relinquished need not be contiguous and shall be defined by the contractor in the form of sub-blocks comprising one or more cells of a grid as provided by the Authority.

2. The total area allocated to the contractor under the contract shall not exceed 10,000 square kilometres. The contractor shall relinquish parts of the area allocated to it in accordance with the following schedule:

(a) By the end of the eighth year from the date of the contract, the contractor shall have relinquished at least 50 per cent of the original area allocated to it;

(b) By the end of the tenth year from the date of the contract, the contractor shall have relinquished at least 75 per cent of the original area allocated to it; or

3. The contractor may at any time relinquish parts of the area allocated to it in advance of the schedule set out in paragraph 2, provided that a contractor shall not be required to relinquish any additional part of such area when the remaining area allocated to it after relinquishment does not exceed 2,500 square kilometres.

4. Relinquished areas shall revert to the Area.

5. At the end of the fifteenth year from the date of the contract, or when the contractor applies for exploitation rights, whichever is the earlier, the contractor shall nominate an area from the remaining area allocated to it to be retained for exploitation.

6. The Council may, at the request of the contractor, and on the recommendation of the Commission, in exceptional circumstances, defer the schedule of relinquishment. Such exceptional circumstances shall be determined by the Council and shall include, inter alia, consideration of prevailing economic circumstances or other unforeseen exceptional circumstances arising in connection with the operational activities of the contractor.

Regulation 28
Duration of contracts

1. A plan of work for exploration shall be approved for a period of 15 years. Upon expiration of a plan of work for exploration, the contractor shall apply for a plan of work for exploitation unless the contractor has already done so, has obtained an extension for the plan of work for exploration or decides to renounce its rights in the area covered by the plan of work for exploration.

2. Not later than six months before the expiration of a plan of work for exploration, a contractor may apply for extensions for the plan of work for exploration for periods of not more than five years each. Such extensions shall be approved by the Council, on the recommendation of the Commission, if the contractor has made efforts in good faith to comply with the requirements of the plan of work but for reasons beyond the contractor's control has been unable to complete the necessary preparatory work for proceeding to the exploitation stage or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

Regulation 29
Training

Pursuant to article 15 of annex III to the Convention, each contract shall include as a schedule a practical programme for the training of personnel of the Authority and developing States and drawn up by the contractor in cooperation with the Authority and the sponsoring State or States. Training programmes shall focus on training in the conduct of exploration, and shall provide for full participation by such personnel in all activities covered by the contract. Such training programmes may be revised and developed from time to time as necessary by mutual agreement.

Regulation 30
Periodic review of the implementation of the plan of work for exploration

1. The contractor and the Secretary-General shall jointly undertake a periodic review of the implementation of the plan of work for exploration at intervals of five years. The Secretary-General may request the contractor to submit such additional data and information as may be necessary for the purposes of the review.

2. In the light of the review, the contractor shall indicate its programme of activities for the following five-year period, making such adjustments to its previous programme of activities as are necessary.

3. The Secretary-General shall report on the review to the Commission and to the Council. The Secretary-General shall indicate in the report whether any observations transmitted to him by States Parties to the Convention concerning the manner in which the contractor has discharged its obligations under these Regulations relating to the protection and preservation of the marine environment were taken into account in the review.

Regulation 31
Termination of sponsorship

1. Each contractor shall have the required sponsorship throughout the period of the contract.

2. If a State terminates its sponsorship it shall promptly notify the Secretary-General in writing. The sponsoring State should also inform the Secretary-General of the reasons for terminating its sponsorship. Termination of sponsorship shall take effect six months after the date of receipt of the notification by the Secretary-General, unless the notification specifies a later date.

3. In the event of termination of sponsorship the contractor shall, within the period referred to in paragraph 2, obtain another sponsor. Such sponsor shall submit a certificate of sponsorship in accordance with regulation 11. Failure to obtain a sponsor within the required period shall result in the termination of the contract.

4. A sponsoring State shall not be discharged by reason of the termination of its sponsorship from any obligations accrued while it was a sponsoring State, nor shall such termination affect any legal rights and obligations created during such sponsorship.

5. The Secretary-General shall notify the members of the Authority of the termination or change of sponsorship.

Regulation 32
Responsibility and liability

Responsibility and liability of the contractor and of the Authority shall be in accordance with the Convention. The contractor shall continue to have responsibility for any damage arising out of wrongful acts in the conduct of its operations, in particular damage to the marine environment, after the completion of the exploration phase.

Part V
Protection and preservation of the marine environment

Regulation 33
Protection and preservation of the marine environment

1. The Authority shall, in accordance with the Convention and the Agreement, establish and keep under periodic review environmental rules, regulations and procedures to ensure effective protection for the marine environment from harmful effects which may arise from activities in the Area.

2. In order to ensure effective protection for the marine environment from harmful effects which may arise from activities in the Area, the Authority and sponsoring States shall apply a precautionary approach, as reflected in principle 15 of the Rio Declaration, and best environmental practices.

3. The Legal and Technical Commission shall make recommendations to the Council on the implementation of paragraphs 1 and 2 above.

4. The Commission shall develop and implement procedures for determining, on the basis of the best available scientific and technical information, including information provided pursuant to regulation 20, whether proposed exploration activities in the Area would have serious harmful effects on vulnerable marine ecosystems, in particular hydrothermal vents, and ensure that, if it is determined that certain proposed exploration activities would have serious harmful effects on vulnerable marine ecosystems, those activities are managed to prevent such effects or not authorized to proceed.

5. Pursuant to article 145 of the Convention and paragraph 2 of this regulation, each contractor shall take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from its activities in the Area as far as reasonably possible, applying a precautionary approach and best environmental practices.

6. Contractors, sponsoring States and other interested States or entities shall cooperate with the Authority in the establishment and implementation of programmes for monitoring and evaluating the impacts of deep seabed mining on the marine environment. When required by the Council, such programmes shall include proposals for areas to be set aside and used exclusively as impact reference zones and preservation reference

zones. “Impact reference zones” means areas to be used for assessing the effect of activities in the Area on the marine environment and which are representative of the environmental characteristics of the Area. “Preservation reference zones” means areas in which no mining shall occur to ensure representative and stable biota of the seabed in order to assess any changes in the biodiversity of the marine environment.

Regulation 34
Environmental baselines and monitoring

1. Each contract shall require the contractor to gather environmental baseline data and to establish environmental baselines, taking into account any recommendations issued by the Legal and Technical Commission pursuant to regulation 41, against which to assess the likely effects of its programme of activities under the plan of work for exploration on the marine environment and a programme to monitor and report on such effects. The recommendations issued by the Commission may, inter alia, list those exploration activities which may be considered to have no potential for causing harmful effects on the marine environment. The contractor shall cooperate with the Authority and the sponsoring State or States in the establishment and implementation of such monitoring programme.

2. The contractor shall report annually in writing to the Secretary-General on the implementation and results of the monitoring programme referred to in paragraph 1 and shall submit data and information, taking into account any recommendations issued by the Commission pursuant to regulation 41. The Secretary-General shall transmit such reports to the Commission for its consideration pursuant to article 165 of the Convention.

Regulation 35
Emergency orders

1. A contractor shall promptly report to the Secretary-General in writing, using the most effective means, any incident arising from activities which have caused, are causing, or pose a threat of, serious harm to the marine environment.

2. When the Secretary-General has been notified by a contractor or otherwise becomes aware of an incident resulting from or caused by a contractor’s activities in the Area that has caused, is causing or poses a threat of, serious harm to the marine environment, the Secretary-General shall cause a general notification of the incident to be issued, shall notify in writing the contractor and the sponsoring State or States, and shall report immediately to the Legal and Technical Commission, to the Council and to all other members of the Authority. A copy of the report shall be circulated to competent international organizations and to concerned subregional, regional and global organizations and bodies. The Secretary-General shall monitor developments with respect to all such incidents and shall report on them as appropriate to the Commission, the Council and all other members of the Authority.

3. Pending any action by the Council, the Secretary-General shall take such immediate measures of a temporary nature as are practical and reasonable in the circumstances to prevent, contain and minimize serious harm or the threat of serious harm to the marine environment. Such temporary measures shall remain in effect for no longer than 90 days, or until the Council decides at its next regular session or a special session, what measures, if any, to take pursuant to paragraph 6 of this regulation.

4. After having received the report of the Secretary-General, the Commission shall determine, based on the evidence provided to it and taking into account the measures already taken by the contractor, which measures are necessary to respond effectively to the incident in order to prevent, contain and minimize serious harm or the threat of serious harm to the marine environment, and shall make its recommendations to the Council.

5. The Council shall consider the recommendations of the Commission.

6. The Council, taking into account the recommendations of the Commission, the report of the Secretary-General, any information provided by the Contractor and any other relevant information, may issue emergency orders, which may include orders for the suspension or adjustment of operations, as may be reasonably necessary to prevent, contain and minimize serious harm or the threat of serious harm to the marine environment arising out of activities in the Area.

7. If a contractor does not promptly comply with an emergency order to prevent, contain and minimize serious harm or the threat of serious harm to the marine environment arising out of its activities in the Area, the Council shall take by itself or through arrangements with others on its behalf, such practical measures as are necessary to prevent, contain and minimize any such serious harm or threat of serious harm to the marine environment.

8. In order to enable the Council, when necessary, to take immediately the practical measures to prevent, contain and minimize the serious harm or threat of serious harm to the marine environment referred to in paragraph 7, the contractor, prior to the commencement of testing of collecting systems and processing operations, will provide the Council with a guarantee of its financial and technical capability to comply promptly with emergency orders or to assure that the Council can take such emergency measures. If the contractor does not provide the Council with such a guarantee, the sponsoring State or States shall, in response to a request by the Secretary-General and pursuant to articles 139 and 235 of the Convention, take necessary measures to ensure that the contractor provides such a guarantee or shall take measures to ensure that assistance is provided to the Authority in the discharge of its responsibilities under paragraph 7.

Regulation 36
Rights of coastal States

1. Nothing in these Regulations shall affect the rights of coastal States in accordance with article 142 and other relevant provisions of the Convention.

2. Any coastal State which has grounds for believing that any activity in the Area by a contractor is likely to cause serious harm or a threat of serious harm to the marine environment under its jurisdiction or sovereignty may notify the Secretary-General in writing of the grounds upon which such belief is based. The Secretary-General shall provide the Contractor and its sponsoring State or States with a reasonable opportunity to examine the evidence, if any, provided by the coastal State as the basis for its belief. The contractor and its sponsoring State or States may submit their observations thereon to the Secretary-General within a reasonable time.

3. If there are clear grounds for believing that serious harm to the marine environment is likely to occur, the Secretary-General shall act in accordance with regulation 35 and, if necessary, shall take immediate measures of a temporary nature as provided for in paragraph 3 of regulation 35.

4. Contractors shall take all measures necessary to ensure that their activities are conducted so as not to cause serious harm to the marine environment, including, but not restricted to, pollution, under the jurisdiction or sovereignty of coastal States, and that such serious harm or pollution arising from incidents or activities in its exploration area does not spread beyond such area.

Regulation 37
Human remains and objects and sites of an archaeological or historical nature

The contractor shall immediately notify the Secretary-General in writing of any finding in the exploration area of any human remains of an archaeological or historical nature, or any object or site of a similar nature and its location, including the preservation and protection measures taken. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization and any other competent international organization. Following the finding of any such human remains, object or site in the exploration area, and in order to avoid disturbing such human remains, object or site, no further

prospecting or exploration shall take place, within a reasonable radius, until such time as the Council decides otherwise after taking account of the views of the Director-General of the United Nations Educational, Scientific and Cultural Organization or any other competent international organization.

Part VI
Confidentiality

Regulation 38
Confidentiality of data and information

1. Data and information submitted or transferred to the Authority or to any person participating in any activity or programme of the Authority pursuant to these Regulations or a contract issued under these Regulations, and designated by the contractor, in consultation with the Secretary-General, as being of a confidential nature, shall be considered confidential unless it is data and information which:

(a) Is generally known or publicly available from other sources;

(b) Has been previously made available by the owner to others without an obligation concerning its confidentiality; or

(c) Is already in the possession of the Authority with no obligation concerning its confidentiality.

Data and information that is necessary for the formulation by the Authority of rules, regulations and procedures concerning protection and preservation of the marine environment and safety, other than proprietary equipment design data, shall not be deemed confidential.

2. Confidential data and information may only be used by the Secretary-General and staff of the Secretariat, as authorized by the Secretary-General, and by the members of the Legal and Technical Commission as necessary for and relevant to the effective exercise of their powers and functions. The Secretary-General shall authorize access to such data and information only for limited use in connection with the functions and duties of the staff of the Secretariat and the functions and duties of the Legal and Technical Commission.

3. Ten years after the date of submission of confidential data and information to the Authority or the expiration of the contract for exploration, whichever is the later, and every five years thereafter, the Secretary-General and the contractor shall review such data and information to determine whether they should remain confidential. Such data and information shall remain confidential if the contractor establishes that there would be a substantial risk of serious and unfair economic prejudice if the data and information were to be released. No such data and information shall be released until the contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to Part XI, section 5, of the Convention.

4. If, at any time following the expiration of the contract for exploration, the contractor enters into a contract for exploitation in respect of any part of the exploration area, confidential data and information relating to that part of the area shall remain confidential in accordance with the contract for exploitation.

5. The contractor may at any time waive confidentiality of data and information.

Regulation 39
Procedures to ensure confidentiality

1. The Secretary-General shall be responsible for maintaining the confidentiality of all confidential data and information and shall not, except with the prior written consent of the contractor, release such data and information to any person external to the Authority. To ensure the confidentiality of such data and information, the Secretary-General shall establish procedures, consistent with the provisions of the Convention, governing the handling of confidential information by members of the Secretariat, members of the Legal and Technical

Commission and any other person participating in any activity or programme of the Authority. Such procedures shall include:

(a) Maintenance of confidential data and information in secure facilities and development of security procedures to prevent unauthorized access to or removal of such data and information;

(b) Development and maintenance of a classification, log and inventory system of all written data and information received, including its type and source and routing from the time of receipt until final disposition.

2. A person who is authorized pursuant to these Regulations to have access to confidential data and information shall not disclose such data and information except as permitted under the Convention and these Regulations. The Secretary-General shall require any person who is authorized to have access to confidential data and information to make a written declaration witnessed by the Secretary-General or his or her authorized representative to the effect that the person so authorized:

(a) Acknowledges his or her legal obligation under the Convention and these Regulations with respect to the non-disclosure of confidential data and information;

(b) Agrees to comply with the applicable regulations and procedures established to ensure the confidentiality of such data and information.

3. The Legal and Technical Commission shall protect the confidentiality of confidential data and information submitted to it pursuant to these Regulations or a contract issued under these Regulations. In accordance with the provisions of article 163, paragraph 8, of the Convention, members of the Commission shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, of the Convention, or any other confidential information coming to their knowledge by reason of their duties for the Authority.

4. The Secretary-General and staff of the Authority shall not disclose, even after the termination of their functions with the Authority, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, of the Convention, or any other confidential information coming to their knowledge by reason of their employment with the Authority.

5. Taking into account the responsibility and liability of the Authority pursuant to Annex III, article 22, of the Convention, the Authority may take such action as may be appropriate against any person who, by reason of his or her duties for the Authority, has access to any confidential data and information and who is in breach of the obligations relating to confidentiality contained in the Convention and these Regulations.

Part VII
General procedures

Regulation 40
Notice and general procedures

1. Any application, request, notice, report, consent, approval, waiver, direction or instruction hereunder shall be made by the Secretary-General or by the designated representative of the prospector, applicant or contractor, as the case may be, in writing. Service shall be by hand, or by telex, facsimile, registered airmail or electronic mail containing an authorized electronic signature to the Secretary-General at the headquarters of the Authority or to the designated representative.

2. Delivery by hand shall be effective when made. Delivery by telex shall be deemed to be effective on the business day following the day when the “answer back” appears on the sender’s telex machine. Delivery by facsimile shall be effective when the “transmit confirmation report” confirming the transmission to the recipient’s

published facsimile number is received by the transmitter. Delivery by registered airmail shall be deemed to be effective 21 days after posting. An electronic document is presumed to be received by the addressee when it enters an information system designated or used by the addressee for the purpose of receiving documents of the type sent and is capable of being retrieved and processed by the addressee.

3. Notice to the designated representative of the prospector, applicant or contractor shall constitute effective notice to the prospector, applicant or contractor for all purposes under these Regulations, and the designated representative shall be the agent of the prospector, applicant or contractor for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

4. Notice to the Secretary-General shall constitute effective notice to the Authority for all purposes under these Regulations, and the Secretary-General shall be the Authority's agent for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

Regulation 41
Recommendations for the guidance of contractors

1. The Legal and Technical Commission may from time to time issue recommendations of a technical or administrative nature for the guidance of contractors to assist them in the implementation of the rules, regulations and procedures of the Authority.

2. The full text of such recommendations shall be reported to the Council. Should the Council find that a recommendation is inconsistent with the intent and purpose of these Regulations, it may request that the recommendation be modified or withdrawn.

Part VIII
Settlement of disputes

Regulation 42
Disputes

1. Disputes concerning the interpretation or application of these Regulations shall be settled in accordance with Part XI, section 5, of the Convention.

2. Any final decision rendered by a court or tribunal having jurisdiction under the Convention relating to the rights and obligations of the Authority and of the Contractor shall be enforceable in the territory of each State Party to the Convention.

Part IX
Resources other than polymetallic sulphides

Regulation 43
Resources other than polymetallic sulphides

If a prospector or contractor finds resources in the Area other than polymetallic sulphides, the prospecting and exploration for and exploitation of such resources shall be subject to the rules, regulations and procedures of the Authority relating to such resources in accordance with the Convention and the Agreement. The prospector or contractor shall notify the Authority of its find.

Part X
Review

Regulation 44
Review

1. Five years following the approval of these Regulations by the Assembly, or at any time thereafter, the Council shall undertake a review of the manner in which the Regulations have operated in practice.

2. If, in the light of improved knowledge or technology, it becomes apparent that the Regulations are not adequate, any State Party, the Legal and Technical Commission, or any contractor through its sponsoring State may at any time request the Council to consider, at its next ordinary session, revisions to these Regulations.

3. In the light of the review, the Council may adopt and apply provisionally, pending approval by the Assembly, amendments to the provisions of these Regulations, taking into account the recommendations of the Legal and Technical Commission or other subordinate organs concerned. Any such amendments shall be without prejudice to the rights conferred on any Contractor with the Authority under the provisions of a contract entered into pursuant to these Regulations in force at the time of any such amendment.

4. In the event that any provisions of these Regulations are amended, the Contractor and the Authority may revise the contract in accordance with section 24 of annex 4.

Annex 1
Notification of intention to engage in prospecting

1. Name of prospector:
2. Street address of prospector:
3. Postal address (if different from above):
4. Telephone number:
5. Facsimile number:
6. Electronic mail address:
7. Nationality of prospector:
8. If prospector is a juridical person, identify prospector's
   (a) Place of registration; and
   (b) Principal place of business/domicile.
   and attach a copy of the prospector's certificate of registration.
9. Name of prospector's designated representative:
10. Street address of prospector's designated representative (if different from above):
11. Postal address (if different from above):
12. Telephone number:
13. Facsimile number:
14. Electronic mail address:

15. Attach the coordinates of the broad area or areas in which prospecting is to be conducted (in accordance with the World Geodetic System WGS 84).

16. Attach a general description of the prospecting programme, including the date of commencement and the approximate duration of the programme.

17. Attach a written undertaking that the prospector will:

(a) Comply with the Convention and the relevant rules, regulations and procedures of the Authority concerning:

(i) Cooperation in the training programmes in connection with marine scientific research and transfer of technology referred to in articles 143 and 144 of the Convention; and

(ii) Protection and preservation of the marine environment; and

(b) Accept verification by the Authority of compliance therewith.

18. List hereunder all the attachments and annexes to this notification (all data and information should be submitted in hard copy and in a digital format specified by the Authority):

Date:_____ _____

Signature of prospector's designated representative

ATTESTATION:

_____

Signature of person attesting

_____

Name of person attesting

_____

Title of person attesting

Annex 2

Application for approval of a plan of work for exploration to obtain a contract

Section I
Information concerning the applicant

1. Name of applicant:

2. Street address of applicant:

3. Postal address (if different from above):

4. Telephone number:

5. Facsimile number:

6. Electronic mail address:

7. Name of applicant's designated representative:

8. Street address of applicant's designated representative (if different from above):

9. Postal address (if different from above):

10. Telephone number:

11. Facsimile number:

12. Electronic mail address:

13. If the applicant is a juridical person, identify applicant's

(a) Place of registration; and

(b) Principal place of business/domicile.

and attach a copy of the applicant's certificate of registration.

14. Identify the sponsoring State or States.

15. In respect of each sponsoring State, provide the date of deposit of its instrument of ratification of, or accession or succession to, the 1982 United Nations Convention on the Law of the Sea and the date of its consent to be bound by the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

16. A certificate of sponsorship issued by the sponsoring State must be attached with this application. If the applicant has more than one nationality, as in the case of a partnership or consortium of entities from more than one State, certificates of sponsorship issued by each of the States involved must be attached.

Section II
Information relating to the area under application

17. Define the boundaries of the blocks under application by attaching a chart (on a scale and projection specified by the Authority) and a list of geographical coordinates (in accordance with the World Geodetic System WGS 84).

18. Indicate whether the applicant elects to contribute a reserved area in accordance with regulation 17 or offer an equity interest in a joint venture arrangement in accordance with regulation 19.

19. If the applicant elects to contribute a reserved area:

(a) Attach a chart (on a scale and projection specified by the Authority) and a list of the coordinates dividing the total area into two parts of equal estimated commercial value; and

(b) Include in an attachment sufficient information to enable the Council to designate a reserved area based on the estimated commercial value of each part of the area under application. Such attachment must include the data available to the applicant with respect to both parts of the area under application, including:

(i) Data on the location, survey and evaluation of the polymetallic sulphides in the areas, including:

a. A description of the technology related to the recovery and processing of polymetallic sulphides that is necessary for making the designation of a reserved area;

b. A map of the physical and geological characteristics, such as seabed topography, bathymetry and bottom currents and information on the reliability of such data;

c. A map showing the remotely sensed data (such as electromagnetic surveys) and other survey data used to determine the lateral extent of each polymetallic sulphide bodies;

d. Drill core and other data used to determine the third dimension of the deposits and therefore used to determine the grade and tonnage of the polymetallic sulphide bodies;

e. Data showing the distribution of active and inactive polymetallic sulphide sites and the age that activity ceased in inactive sites and was initiated at active sites;

f. Data showing the average tonnage (in metric tonnes) of each polymetallic sulphide body that will comprise the mine site and an associated tonnage map showing the location of sampling sites;

g. Data showing the average elemental content of metals of economic interest (grade) based on chemical assays in (dry) weight per cent and an associated grade map for data among and within the polymetallic sulphide bodies;

h. Combined maps of tonnage and grade of polymetallic sulphides;

i. A calculation based on standard procedures, including statistical analysis, using the data submitted and assumptions made in the calculations that the two areas could be expected to contain polymetallic sulphides of equal estimated commercial value expressed as recoverable metals in mineable areas;

j. A description of the techniques used by the applicant;

(ii) Information concerning environmental parameters (seasonal and during test period) including, inter alia, wind speed and direction, water salinity, temperature and biological communities.

20. If the area under application includes any part of a reserved area, attach a list of coordinates of the area which forms part of the reserved area and indicate the applicant's qualifications in accordance with regulation 18 of the Regulations.

Section III
Financial and technical information

21. Attach sufficient information to enable the Council to determine whether the applicant is financially capable of carrying out the proposed plan of work for exploration and of fulfilling its financial obligations to the Authority:

(a) If the application is made by the Enterprise, attach certification by its competent authority that the Enterprise has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration;

(b) If the application is made by a State or a State enterprise, attach a statement by the State or the sponsoring State certifying that the applicant has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration;

(c) If the application is made by an entity, attach copies of the applicant's audited financial statements, including balance sheets and profit-and-loss statements, for the most recent three years in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants; and

(i) If the applicant is a newly organized entity and a certified balance sheet is not available, a pro forma balance sheet certified by an appropriate official of the applicant;

(ii) If the applicant is a subsidiary of another entity, copies of such financial statements of that entity and a statement from that entity in conformity with internationally accepted accounting practices and certified by a duly qualified firm of public accountants that the applicant will have the financial resources to carry out the plan of work for exploration;

(iii) If the applicant is controlled by a State or a State enterprise, a statement from the State or State enterprise certifying that the applicant will have the financial resources to carry out the plan of work for exploration.

22. If it is intended to finance the proposed plan of work for exploration by borrowings, attach a statement of the amount of such borrowings, the repayment period and the interest rate.

23. Attach sufficient information to enable the Council to determine whether the applicant is technically capable of carrying out the proposed plan of work for exploration, including:

(a) A general description of the applicant's previous experience, knowledge, skills, technical qualifications and expertise relevant to the proposed plan of work for exploration;

(b) A general description of the equipment and methods expected to be used in carrying out the proposed plan of work for exploration and other relevant non-proprietary information about the characteristics of such technology;

(c) A general description of the applicant's financial and technical capability to respond to any incident or activity which causes serious harm to the marine environment.

Section IV
The plan of work for exploration

24. Attach the following information relating to the plan of work for exploration:

(a) A general description and a schedule of the proposed exploration programme, including the programme of activities for the immediate five-year period, such as studies to be undertaken in respect of the environmental, technical, economic and other appropriate factors which must be taken into account in exploration;

(b) A description of a programme for oceanographic and environmental baseline studies in accordance with the Regulations and any environmental rules, regulations and procedures established by the Authority that would enable an assessment of the potential environmental impact including, but not restricted to, the impact on biodiversity, of the proposed exploration activities, taking into account any recommendations issued by the Legal and Technical Commission;

(c) A preliminary assessment of the possible impact of the proposed exploration activities on the marine environment;

(d) A description of proposed measures for the prevention, reduction and control of pollution and other hazards, as well as possible impacts, to the marine environment;

(e) A schedule of anticipated yearly expenditures in respect of the programme of activities for the immediate five-year period.

Section V
Undertakings

25. Attach a written undertaking that the applicant will:

(a) Accept as enforceable and comply with the applicable obligations created by the provisions of the Convention and the rules, regulations and procedures of the Authority, the decisions of the relevant organs of the Authority and the terms of its contracts with the Authority;

(b) Accept control by the Authority of activities in the Area as authorized by the Convention;

(c) Provide the Authority with a written assurance that its obligations under the contract will be fulfilled in good faith.

Section VI
Previous contracts

26. Has the applicant or, in the case of an application by a partnership or consortium of entities in a joint arrangement, any member of the partnership or consortium previously been awarded any contract with the Authority?

27. If the answer to 26 is "yes", the application must include:

(a) The date of the previous contract or contracts;

(b) The date, reference number and title of each report submitted to the Authority in connection with the contact or contracts; and

(c) The date of termination of the contract or contracts, if applicable.

Section VII
Attachments

28. List all the attachments and annexes to this application (all data and information should be submitted in hard copy and in a digital format specified by the Authority):

Date:_____ _____
Signature of applicant's designated representative

ATTESTATION:

_____
Signature of person attesting

_____
Name of person attesting

_____
Title of person attesting

Annex 3
Contract for exploration

THIS CONTRACT made the day of between the INTERNATIONAL SEABED AUTHORITY represented by its SECRETARY-GENERAL (hereinafter referred to as "the Authority") and represented by (hereinafter referred to as "the Contractor") WITNESSETH as follows:

Incorporation of clauses

A. The standard clauses set out in annex 4 to the Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area shall be incorporated herein and shall have effect as if herein set out at length.

Exploration area

B. For the purposes of this contract, the "exploration area" means that part of the Area allocated to the Contractor for exploration, defined by the coordinates listed in schedule 1 hereto, as reduced from time to time in accordance with the standard clauses and the Regulations.

Grant of rights

C. In consideration of:

(1) Their mutual interest in the conduct of exploration activities in the exploration area pursuant to the Convention and the Agreement;

(2) The responsibility of the Authority to organize and control activities in the Area, particularly with a view to administering the resources of the Area, in accordance with the legal regime established in Part XI of the Convention and the Agreement and Part XII of the Convention respectively; and

(3) The interest and financial commitment of the Contractor in conducting activities in the exploration area and the mutual covenants made herein, the Authority hereby grants to the Contractor the exclusive right to explore for polymetallic sulphides in the exploration area in accordance with the terms and conditions of this contract.

Entry into force and contract term

D. This contract shall enter into force on signature by both parties and, subject to the standard clauses, shall remain in force for a period of fifteen years thereafter unless:

(1) The Contractor obtains a contract for exploitation in the exploration area which enters into force before the expiration of such period of fifteen years; or

(2) The contract is sooner terminated provided that the term of the contract may be extended in accordance with standard clauses 3.2 and 17.2.

Schedules

E. The schedules referred to in the standard clauses, namely section 4 and section 8, are for the purposes of this contract schedules 2 and 3 respectively.

Entire agreement

F. This contract expresses the entire agreement between the parties, and no oral understanding or prior writing shall modify the terms hereof.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by the respective parties, have signed this contract at …, this … day of …

Schedule 1

[Coordinates and illustrative chart of the exploration area]

Schedule 2

[The current five-year programme of activities as revised from time to time]

Schedule 3

[The training programme shall become a schedule to the contract when approved by the Authority in accordance with section 8 of the standard clauses.]

Annex 4
Standard clauses for exploration contract

Section 1
Definitions

1.1 In the following clauses:

(a) "exploration area" means that part of the Area allocated to the Contractor for exploration, described in schedule 1 hereto, as the same may be reduced from time to time in accordance with this contract and the Regulations;

(b) "programme of activities" means the programme of activities which is set out in schedule 2 hereto as the same may be adjusted from time to time in accordance with sections 4.3 and 4.4 hereof;

(c) "regulations" means the Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area, adopted by the Authority.

1.2 Terms and phrases defined in the Regulations shall have the same meaning in these standard clauses.

1.3 In accordance with the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, its provisions and Part XI of the Convention are to be interpreted and applied together as a single instrument; this contract and references in this contract to the Convention are to be interpreted and applied accordingly.

1.4 This contract includes the schedules to this contract, which shall be an integral part hereof.

Section 2
Security of tenure

2.1 The Contractor shall have security of tenure and this contract shall not be suspended, terminated or revised except in accordance with sections 20, 21 and 24 hereof.

2.2 The Contractor shall have the exclusive right to explore for polymetallic sulphides in the exploration area in accordance with the terms and conditions of this contract. The Authority shall ensure that no other entity operates in the exploration area for a different category of resources in a manner that might unreasonably interfere with the operations of the Contractor.

2.3 The Contractor, by notice to the Authority, shall have the right at any time to renounce without penalty the whole or part of its rights in the exploration area, provided that the Contractor shall remain liable for all obligations accrued prior to the date of such renunciation in respect of the area renounced.

2.4 Nothing in this contract shall be deemed to confer any right on the Contractor other than those rights expressly granted herein. The Authority reserves the right to enter into contracts with respect to resources other than polymetallic sulphides with third parties in the area covered by this contract.

Section 3
Contract term

3.1 This contract shall enter into force on signature by both parties and shall remain in force for a period of fifteen years thereafter unless:

(a) The Contractor obtains a contract for exploitation in the exploration area which enters into force before the expiration of such period of fifteen years; or

(b) The contract is sooner terminated,

provided that the term of the contract may be extended in accordance with sections 3.2 and 17.2 hereof.

3.2 Upon application by the Contractor, not later than six months before the expiration of this contract, this contract may be extended for periods of not more than five years each on such terms and conditions as the Authority and the Contractor may then agree in accordance with the Regulations. Such extensions shall be approved if the Contractor has made efforts in good faith to comply with the requirements of this contract but for reasons beyond the Contractor's control has been unable to complete the necessary preparatory work for proceeding to the exploitation stage or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

3.3 Notwithstanding the expiration of this contract in accordance with section 3.1 hereof, if the Contractor has, at least 90 days prior to the date of expiration, applied for a contract for exploitation, the Contractor's rights and obligations under this contract shall continue until such time as the application has been considered and a contract for exploitation has been issued or refused.

Section 4
Exploration

4.1 The Contractor shall commence exploration in accordance with the time schedule stipulated in the programme of activities set out in schedule 2 hereto and shall adhere to such time periods or any modification thereto as provided for by this contract.

4.2 The Contractor shall carry out the programme of activities set out in schedule 2 hereto. In carrying out such activities the Contractor shall spend in each contract year not less than the amount specified in such programme, or any agreed review thereof, in actual and direct exploration expenditures.

4.3 The Contractor, with the consent of the Authority, which consent shall not be unreasonably withheld, may from time to time make such changes in the programme of activities and the expenditures specified therein as may be necessary and prudent in accordance with good mining industry practice, and taking into account the market conditions for the metals contained in polymetallic sulphides and other relevant global economic conditions.

4.4 Not later than 90 days prior to the expiration of each five-year period from the date on which this contract enters into force in accordance with section 3 hereof, the Contractor and the Secretary-General shall jointly undertake a review of the implementation of the plan of work for exploration under this contract. The Secretary-General may require the Contractor to submit such additional data and information as may be necessary for the purposes of the review. In the light of the review, the Contractor shall make such adjustments to its plan of work as are necessary and shall indicate its programme of activities for the following five-year period, including a revised schedule of anticipated yearly expenditures. Schedule 2 hereto shall be adjusted accordingly.

Section 5
Environmental monitoring

5.1 The Contractor shall take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from its activities in the Area as far as reasonably possible applying a precautionary approach and best environmental practices.

5.2 Prior to the commencement of exploration activities, the Contractor shall submit to the Authority:

(a) An impact assessment of the potential effects on the marine environment of the proposed activities;

(b) A proposal for a monitoring programme to determine the potential effect on the marine environment of the proposed activities; and

(c) Data that could be used to establish an environmental baseline against which to assess the effect of the proposed activities.

5.3 The Contractor shall, in accordance with the Regulations, gather environmental baseline data as exploration activities progress and develop and shall establish environmental baselines against which to assess the likely effects of the Contractor's activities on the marine environment.

5.4 The Contractor shall, in accordance with the Regulations, establish and carry out a programme to monitor and report on such effects on the marine environment. The Contractor shall cooperate with the Authority in the implementation of such monitoring.

5.5 The Contractor shall, within 90 days of the end of each calendar year, report to the Secretary-General on the implementation and results of the monitoring programme referred to in section 5.4 hereof and shall submit data and information in accordance with the Regulations.

Section 6
Contingency plans and emergencies

6.1 The Contractor shall, prior to the commencement of its programme of activities under this contract, submit to the Secretary-General a contingency plan to respond effectively to incidents that are likely to cause serious harm or a threat of serious harm to the marine environment arising from the Contractor's activities at sea in the exploration area. Such contingency plan shall establish special procedures and provide for adequate and appropriate equipment to deal with such incidents and, in particular, shall include arrangements for:

(a) The immediate raising of a general alarm in the area of the exploration activities;

(b) Immediate notification to the Secretary-General;

(c) The warning of ships which might be about to enter the immediate vicinity;

(d) A continuing flow of full information to the Secretary-General relating to particulars of the contingency measures already taken and further actions required;

(e) The removal, as appropriate, of polluting substances;

(f) The reduction and, so far as reasonably possible, prevention of serious harm to the marine environment, as well as mitigation of such effects;

(g) As appropriate, cooperation with other contractors with the Authority to respond to an emergency; and

(h) Periodic emergency response exercises.

6.2 The Contractor shall promptly report to the Secretary-General any incident arising from its activities that has caused, is causing or poses a threat of serious harm to the marine environment. Each such report shall contain the details of such incident, including, inter alia:

(a) The coordinates of the area affected or which can reasonably be anticipated to be affected;

(b) The description of the action being taken by the Contractor to prevent, contain, minimize and repair the serious harm or threat of serious harm to the marine environment;

(c) A description of the action being taken by the Contractor to monitor the effects of the incident on the marine environment; and

(d) Such supplementary information as may reasonably be required by the Secretary-General.

6.3 The Contractor shall comply with emergency orders issued by the Council and immediate measures of a temporary nature issued by the Secretary-General in accordance with the Regulations, to prevent, contain, minimize or repair serious harm or the threat of serious harm to the marine environment, which may include orders to the Contractor to immediately suspend or adjust any activities in the exploration area.

6.4 If the Contractor does not promptly comply with such emergency orders or immediate measures of a temporary nature, the Council may take such reasonable measures as are necessary to prevent, contain, minimize or repair any such serious harm or the threat of serious harm to the marine environment at the Contractor's expense. The Contractor shall promptly reimburse the Authority the amount of such expenses. Such expenses shall be in addition to any monetary penalties which may be imposed on the Contractor pursuant to the terms of this contract or the Regulations.

Section 7
Human remains and objects and sites of an archaeological or historical nature

The Contractor shall immediately notify the Secretary-General in writing of any finding in the exploration area of any human remains of an archaeological or historical nature, or any object or site of a similar nature and its location, including the preservation and protection measures taken. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization and any other competent international organization. Following the finding of any such human remains, object or site in the exploration area, and in order to avoid disturbing such human remains, object or site, no further prospecting or exploration shall take place, within a reasonable radius, until such time as the Council decides otherwise after taking account of the views of the Director-General of the United Nations Educational, Scientific and Cultural Organization or any other competent international organization.

Section 8
Training

8.1 In accordance with the Regulations, the Contractor shall, prior to the commencement of exploration under this contract, submit to the Authority for approval proposed training programmes for the training of personnel of the Authority and developing States, including the participation of such personnel in all of the Contractor's activities under this contract.

8.2 The scope and financing of the training programme shall be subject to negotiation between the Contractor, the Authority and the sponsoring State or States.

8.3 The Contractor shall conduct training programmes in accordance with the specific programme for the training of personnel referred to in section 8.1 hereof approved by the Authority in accordance with the Regulations, which programme, as revised and developed from time to time, shall become a part of this contract as schedule 3.

Section 9
Books and records

The Contractor shall keep a complete and proper set of books, accounts and financial records, consistent with internationally accepted accounting principles. Such books, accounts and financial records shall include information which will fully disclose the actual and direct expenditures for exploration and such other information as will facilitate an effective audit of such expenditures.

Section 10
Annual reports

10.1 The Contractor shall, within 90 days of the end of each calendar year, submit a report to the Secretary-General in such format as may be recommended from time to time by the Legal and Technical Commission covering its programme of activities in the exploration area and containing, as applicable, information in sufficient detail on:

(a) The exploration work carried out during the calendar year, including maps, charts and graphs illustrating the work that has been done and the results obtained;

(b) The equipment used to carry out the exploration work, including the results of tests conducted of proposed mining technologies, but not equipment design data; and

(c) The implementation of training programmes, including any proposed revisions to or developments of such programmes.

10.2 Such reports shall also contain:

(a) The results obtained from environmental monitoring programmes, including observations, measurements, evaluations and analyses of environmental parameters;

(b) A statement of the quantity of polymetallic sulphides recovered as samples or for the purpose of testing;

(c) A statement, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, or, where the Contractor is a State or a State enterprise, by the sponsoring State, of the actual and direct exploration expenditures of the Contractor in carrying out the programme of activities during the Contractor's accounting year. Such expenditures may be claimed by the contractor as part of the contractor's development costs incurred prior to the commencement of commercial production; and

(d) Details of any proposed adjustments to the programme of activities and the reasons for such adjustments.

10.3 The Contractor shall also submit such additional information to supplement the reports referred to in section 10.1 and 10.2 hereof as the Secretary-General may from time to time reasonably require in order to carry out the Authority's functions under the Convention, the Regulations and this contract.

10.4 The Contractor shall keep, in good condition, a representative portion of samples and cores of the polymetallic sulphides obtained in the course of exploration until the expiration of this contract. The Authority may request the Contractor in writing to deliver to it for analysis a portion of any such sample and cores obtained during the course of exploration.

Section 11
Data and information to be submitted on expiration of the contract

11.1 The Contractor shall transfer to the Authority all data and information that are both necessary for and relevant to the effective exercise of the powers and functions of the Authority in respect of the exploration area in accordance with the provisions of this section.

11.2 Upon expiration or termination of this contract the Contractor, if it has not already done so, shall submit the following data and information to the Secretary-General:

(a) Copies of geological, environmental, geochemical and geophysical data acquired by the Contractor in the course of carrying out the programme of activities that are necessary for and relevant to the effective exercise of the powers and functions of the Authority in respect of the exploration area;

(b) The estimation of mineable deposits, when such deposits have been identified, which shall include details of the grade and quantity of the proven, probable and possible polymetallic sulphide reserves and the anticipated mining conditions;

(c) Copies of geological, technical, financial and economic reports made by or for the Contractor that are necessary for and relevant to the effective exercise of the powers and functions of the Authority in respect of the exploration area;

(d) Information in sufficient detail on the equipment used to carry out the exploration work, including the results of tests conducted of proposed mining technologies, but not equipment design data;

(e) A statement of the quantity of polymetallic sulphides recovered as samples or for the purpose of testing; and

(f) A statement on how and where samples of cores are archived and their availability to the Authority.

11.3 The data and information referred to in section 11.2 hereof shall also be submitted to the Secretary-General if, prior to the expiration of this contract, the Contractor applies for approval of a plan of work for exploitation or if the Contractor renounces its rights in the exploration area to the extent that such data and information relates to the renounced area.

Section 12
Confidentiality

Data and information transferred to the Authority in accordance with this contract shall be treated as confidential in accordance with the provisions of the Regulations.

Section 13
Undertakings

13.1 The Contractor shall carry out exploration in accordance with the terms and conditions of this contract, the Regulations, Part XI of the Convention, the Agreement and other rules of international law not incompatible with the Convention.

13.2 The Contractor undertakes:

(a) To accept as enforceable and comply with the terms of this contract;

(b) To comply with the applicable obligations created by the provisions of the Convention, the rules, regulations and procedures of the Authority and the decisions of the relevant organs of the Authority;

(c) To accept control by the Authority of activities in the Area as authorized by the Convention;

(d) To fulfil its obligations under this contract in good faith; and

(e) To observe, as far as reasonably practicable, any recommendations which may be issued from time to time by the Legal and Technical Commission.

13.3 The Contractor shall actively carry out the programme of activities:

(a) With due diligence, efficiency and economy;

(b) With due regard to the impact of its activities on the marine environment; and

(c) With reasonable regard for other activities in the marine environment.

13.4 The Authority undertakes to fulfil in good faith its powers and functions under the Convention and the Agreement in accordance with article 157 of the Convention.

Section 14
Inspection

14.1 The Contractor shall permit the Authority to send its inspectors on board vessels and installations used by the Contractor to carry out activities in the exploration area to:

(a) Monitor the Contractor's compliance with the terms and conditions of this contract and the Regulations; and

(b) Monitor the effects of such activities on the marine environment.

14.2 The Secretary-General shall give reasonable notice to the Contractor of the projected time and duration of inspections, the name of the inspectors and any activities the inspectors are to perform that are likely to require the availability of special equipment or special assistance from personnel of the Contractor.

14.3 Such inspectors shall have the authority to inspect any vessel or installation, including its log, equipment, records, facilities, all other recorded data and any relevant documents which are necessary to monitor the Contractor's compliance.

14.4 The Contractor, its agents and employees shall assist the inspectors in the performance of their duties and shall:

(a) Accept and facilitate prompt and safe boarding of vessels and installations by inspectors;

(b) Cooperate with and assist in the inspection of any vessel or installation conducted pursuant to these procedures;

(c) Provide access to all relevant equipment, facilities and personnel on vessels and installations at all reasonable times;

(d) Not obstruct, intimidate or interfere with inspectors in the performance of their duties;

(e) Provide reasonable facilities, including, where appropriate, food and accommodation, to inspectors; and

(f) Facilitate safe disembarkation by inspectors.

14.5 Inspectors shall avoid interference with the safe and normal operations on board vessels and installations used by the Contractor to carry out activities in the area visited and shall act in accordance with the Regulations and the measures adopted to protect confidentiality of data and information.

14.6 The Secretary-General and any duly authorized representatives of the Secretary-General, shall have access, for purposes of audit and examination, to any books, documents, papers and records of the Contractor which are necessary and directly pertinent to verify the expenditures referred to in section 10.2 (c).

14.7 The Secretary-General shall provide relevant information contained in the reports of inspectors to the Contractor and its sponsoring State or States where action is necessary.

14.8 If for any reason the Contractor does not pursue exploration and does not request a contract for exploitation, it shall, before withdrawing from the exploration area, notify the Secretary-General in writing in order to permit the Authority, if it so decides, to carry out an inspection pursuant to this section.

Section 15
Safety, labour and health standards

15.1 The Contractor shall comply with the generally accepted international rules and standards established by competent international organizations or general diplomatic conferences concerning the safety of life at sea, and the prevention of collisions and such rules, regulations and procedures as may be adopted by the Authority relating to safety at sea. Each vessel used for carrying out activities in the Area shall possess current valid certificates required by and issued pursuant to such international rules and standards.

15.2 The Contractor shall, in carrying out exploration under this contract, observe and comply with such rules, regulations and procedures as may be adopted by the Authority relating to protection against discrimination in employment, occupational safety and health, labour relations, social security, employment security and living conditions at the work site. Such rules, regulations and procedures shall take into account conventions and recommendations of the International Labour Organization and other competent international organizations.

Section 16
Responsibility and liability

16.1 The Contractor shall be liable for the actual amount of any damage, including damage to the marine environment, arising out of its wrongful acts or omissions, and those of its employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of its operations under this contract, including the costs of reasonable measures to prevent or limit damage to the marine environment, account being taken of any contributory acts or omissions by the Authority.

16.2 The Contractor shall indemnify the Authority, its employees, subcontractors and agents against all claims and liabilities of any third party arising out of any wrongful acts or omissions of the Contractor and its employees, agents and subcontractors, and all persons engaged in working or acting for them in the conduct of its operations under this contract.

16.3 The Authority shall be liable for the actual amount of any damage to the Contractor arising out of its wrongful acts in the exercise of its powers and functions, including violations under article 168, paragraph 2, of the Convention, account being taken of contributory acts or omissions by the Contractor, its employees, agents and subcontractors, and all persons engaged in working or acting for them in the conduct of its operations under this contract.

16.4 The Authority shall indemnify the Contractor, its employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of its operations under this contract, against all claims and liabilities of any third party arising out of any wrongful acts or omissions in the exercise of its powers and functions hereunder, including violations under article 168, paragraph 2, of the Convention.

16.5 The Contractor shall maintain appropriate insurance policies with internationally recognized carriers, in accordance with generally accepted international maritime practice.

Section 17
Force majeure

17.1 The Contractor shall not be liable for an unavoidable delay or failure to perform any of its obligations under this contract due to force majeure. For the purposes of this contract, force majeure shall mean an event or condition that the Contractor could not reasonably be expected to prevent or control; provided that the event or condition was not caused by negligence or by a failure to observe good mining industry practice.

17.2 The Contractor shall, upon request, be granted a time extension equal to the period by which performance was delayed hereunder by force majeure and the term of this contract shall be extended accordingly.

17.3 In the event of force majeure, the Contractor shall take all reasonable measures to remove its inability to perform and comply with the terms and conditions of this contract with a minimum of delay.

17.4 The Contractor shall give notice to the Authority of the occurrence of an event of force majeure as soon as reasonably possible, and similarly give notice to the Authority of the restoration of normal conditions.

Section 18
Disclaimer

Neither the Contractor nor any affiliated company or subcontractor shall in any manner claim or suggest, whether expressly or by implication, that the Authority or any official thereof has, or has expressed, any opinion with respect to polymetallic sulphides in the exploration area and a statement to that effect shall not be included in or endorsed on any prospectus, notice, circular, advertisement, press release or similar document issued by the Contractor, any affiliated company or any subcontractor that refers directly or indirectly to this contract. For the purposes of this section, an "affiliated company" means any person, firm or company or State-owned entity controlling, controlled by, or under common control with, the Contractor.

Section 19
Renunciation of rights

The Contractor, by notice to the Authority, shall have the right to renounce its rights and terminate this contract without penalty, provided that the Contractor shall remain liable for all obligations accrued prior to the date of such renunciation and those obligations required to be fulfilled after termination in accordance with the Regulations.

Section 20
Termination of sponsorship

20.1 If the nationality or control of the Contractor changes or the Contractor's sponsoring State, as defined in the Regulations, terminates its sponsorship, the Contractor shall promptly notify the Authority forthwith.

20.2 In either such event, if the Contractor does not obtain another sponsor meeting the requirements prescribed in the Regulations which submits to the Authority a certificate of sponsorship for the Contractor in the prescribed form within the time specified in the Regulations, this contract shall terminate forthwith.

Section 21
Suspension and termination of contract and penalties

21.1 The Council may suspend or terminate this contract, without prejudice to any other rights that the Authority may have, if any of the following events should occur:

(a) If, in spite of written warnings by the Authority, the Contractor has conducted its activities in such a way as to result in serious persistent and wilful violations of the fundamental terms of this contract, Part XI of the Convention, the Agreement and the rules, regulations and procedures of the Authority; or

(b) If the Contractor has failed to comply with a final binding decision of the dispute settlement body applicable to it; or

(c) If the Contractor becomes insolvent or commits an act of bankruptcy or enters into any agreement for composition with its creditors or goes into liquidation or receivership, whether compulsory or voluntary, or petitions or applies to any tribunal for the appointment of a receiver or a trustee or receiver for itself or commences any proceedings relating to itself under any bankruptcy,

insolvency or readjustment of debt law, whether now or hereafter in effect, other than for the purpose of reconstruction.

21.2 The Council may, without prejudice to Section 17, after consultation with the contractor, suspend or terminate this contract, without prejudice to any other rights that the Authority may have, if the Contractor is prevented from performing its obligations under this contract by reason of an event or condition of force majeure, as described in Section 17.1, which has persisted for a continuous period exceeding two years, despite the Contractor having taken all reasonable measures to remove its inability to perform and comply with the terms and conditions of this contract with a minimum of delay.

21.3 Any suspension or termination shall be by notice, through the Secretary-General, which shall include a statement of the reasons for taking such action. The suspension or termination shall be effective 60 days after such notice, unless the Contractor within such period disputes the Authority's right to suspend or terminate this contract in accordance with Part XI, section 5, of the Convention.

21.4 If the Contractor takes such action, this contract shall only be suspended or terminated in accordance with a final binding decision in accordance with Part XI, section 5, of the Convention.

21.5 If the Council has suspended this contract, the Council may by notice require the Contractor to resume its operations and comply with the terms and conditions of this contract, not later than 60 days after such notice.

21.6 In the case of any violation of this contract not covered by section 21.1 (a) hereof, or in lieu of suspension or termination under section 21.1 hereof, the Council may impose upon the Contractor monetary penalties proportionate to the seriousness of the violation.

21.7 The Council may not execute a decision involving monetary penalties until the Contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to Part XI, section 5, of the Convention.

21.8 In the event of termination or expiration of this contract, the Contractor shall comply with the Regulations and shall remove all installations, plant, equipment and materials in the exploration area and shall make the area safe so as not to constitute a danger to persons, shipping or to the marine environment.

Section 22
Transfer of rights and obligations

22.1 The rights and obligations of the Contractor under this contract may be transferred in whole or in part only with the consent of the Authority and in accordance with the Regulations.

22.2 The Authority shall not unreasonably withhold consent to the transfer if the proposed transferee is in all respects a qualified applicant in accordance with the Regulations and assumes all of the obligations of the Contractor and if the transfer does not confer to the transferee a plan of work, the approval of which would be forbidden by Annex III, article 6, paragraph 3 (c), of the Convention.

22.3 The terms, undertakings and conditions of this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 23
No waiver

No waiver by either party of any rights pursuant to a breach of the terms and conditions of this contract to be performed by the other party shall be construed as a waiver by the party of any succeeding breach of the same or any other term or condition to be performed by the other party.

Section 24
Revision

24.1 When circumstances have arisen or are likely to arise which, in the opinion of the Authority or the Contractor, would render this contract inequitable or make it impracticable or impossible to achieve the objectives set out in this contract or in Part XI of the Convention or the Agreement, the parties shall enter into negotiations to revise it accordingly.

24.2 This contract may also be revised by agreement between the Contractor and the Authority to facilitate the application of any rules, regulations and procedures adopted by the Authority subsequent to the entry into force of this contract.

24.3 This contract may be revised, amended or otherwise modified only with the consent of the Contractor and the Authority by an appropriate instrument signed by the authorized representatives of the parties.

Section 25
Disputes

25.1 Any dispute between the parties concerning the interpretation or application of this contract shall be settled in accordance with Part XI, section 5, of the Convention.

25.2 In accordance with article 21, paragraph 2, of Annex III to the Convention, any final decision rendered by a court or tribunal having jurisdiction under the Convention relating to the rights and obligations of the Authority and of the Contractor shall be enforceable in the territory of any State Party to the Convention affected thereby.

Section 26
Notice

26.1 Any application, request, notice, report, consent, approval, waiver, direction or instruction hereunder shall be made by the Secretary-General or by the designated representative of the Contractor, as the case may be, in writing. Service shall be by hand, or by telex, facsimile, registered airmail or electronic mail containing an authorized signature to the Secretary-General at the headquarters of the Authority or to the designated representative. The requirement to provide any information in writing under these Regulations is satisfied by the provision of the information in an electronic document containing a digital signature.

26.2 Either party shall be entitled to change any such address to any other address by not less than ten days' notice to the other party.

26.3 Delivery by hand shall be effective when made. Delivery by telex shall be deemed to be effective on the business day following the day when the "answer back" appears on the sender's telex machine. Delivery by facsimile shall be effective when the "transmit confirmation report" confirming the transmission to the recipient's published facsimile number is received by the transmitter. Delivery by registered airmail shall be deemed to be effective 21 days after posting. An electronic document is presumed to have been received by the addressee when it enters an information system designated or used by the addressee for the purpose of receiving documents of the type sent and it is capable of being retrieved and processed by the addressee.

26.4 Notice to the designated representative of the Contractor shall constitute effective notice to the Contractor for all purposes under this contract, and the designated representative shall be the Contractor's agent for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

26.5 Notice to the Secretary-General shall constitute effective notice to the Authority for all purposes under this contract, and the Secretary-General shall be the Authority's agent for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

Section 27
Applicable law

27.1 This contract shall be governed by the terms of this contract, the rules, regulations and procedures of the Authority, Part XI of the Convention, the Agreement and other rules of international law not incompatible with the Convention.

27.2 The Contractor, its employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of its operations under this contract shall observe the applicable law referred to in section 27.1 hereof and shall not engage in any transaction, directly or indirectly, prohibited by the applicable law.

27.3 Nothing contained in this contract shall be deemed an exemption from the necessity of applying for and obtaining any permit or authority that may be required for any activities under this contract.

Section 28
Interpretation

The division of this contract into sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

Section 29
Additional documents

Each party hereto agrees to execute and deliver all such further instruments, and to do and perform all such further acts and things as may be necessary or expedient to give effect to the provisions of this contract.

ISBA/16/A/13 Statement of the President of the Assembly of the International Seabed Authority on the work of the Assembly at its sixteenth session

Date: 14 May 2010

1. The sixteenth session of the Assembly of the International Seabed Authority was held at Kingston from 26 April to 7 May 2010.

I. ADOPTION OF THE AGENDA

2. At its 125th meeting, on 27 April 2010, the Assembly adopted its agenda for the sixteenth session (ISBA/16/A/1).

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

3. At the 125th meeting, Ambassador Jesus Silva-Fernandez (Spain) was elected President of the Assembly for the sixteenth session.

4. At the 125th and 126th meetings, following consultations in the regional groups, the representatives of Bangladesh (Group of Asian States), Uganda (Group of African States), Trinidad and Tobago (Group of Latin American and Caribbean States) and the Czech Republic (Group of Eastern European and other States) were elected as Vice-Presidents.

III. ELECTIONS TO FILL A VACANCY IN THE FINANCE COMMITTEE

5. At its 125th meeting, the Assembly was invited to note that Soe Lynn Han (Myanmar) and Neeru Chadha (India) had resigned from the Finance Committee effective 9 March 2010. The Assembly was informed that the Permanent Mission of Myanmar to the United Nations had notified the Secretary-General by note verbale on 15 March 2010 that Zaw Minn Aung had been nominated to replace Mr. Han for the remainder of his term on the Finance Committee. The Assembly was also informed that the Permanent Mission of India to the United Nations had also notified the Secretary-General by note verbale on 1 April 2010 of the nomination of Pradip Kumar Choudhary to replace Ms. Chadha. The Assembly elected Zaw Minn Aung as member of the Finance Committee for the remainder of the term of Mr. Han, and Pradip Kumar Choudary as a member of the Finance Committee for the remainder of the term of Ms. Chadha.

IV. REQUESTS BY THE INTERNATIONAL CABLE PROTECTION COMMITTEE AND THE OSPAR COMMISSION FOR OBSERVER STATUS IN THE ASSEMBLY

6. At its 125th meeting, the Assembly considered requests for observer status by the International Cable Protection Committee and OSPAR Commission and decided to invite them to participate as observers in its meetings.

V. REPORT OF THE SECRETARY-GENERAL

7. At the 126th meeting, on 29 April 2010, the Secretary-General introduced his annual report to the Assembly (ISBA/16/A/2), as required under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea.

8. The report provided a detailed account of the Authority's work over the past year as well as an overview of the outcomes of its programme of work for 2008-2010. It also outlined the main trends of the proposed programme of work for 2011-2013, covering such matters as supervision of contracts for exploration and award of new ones; progressive development of the regulatory regime for activities in the Area; promotion and encouragement of marine scientific research in the Area; and database development.

9. The Secretary-General reported that, by 28 February 2010, membership had grown to 160 after Switzerland, the Dominican Republic and Chad became parties to the Convention and the 1994 Agreement in 2009. There are still 22 members of the Authority that have not yet become parties to the Agreement. Mr. Odunton also announced that, as at 28 February 2010, 20 States and the European Union maintained permanent missions to the Authority.

10. With regard to the status of contributions to the Authority's budget, the Secretary-General stated that contributions outstanding from member States for the period 1998-2008 totalled $314,731. He said that 43 members were in arrears for a period of two years or more.

11. As at 1 March 2010, the balance of the Working Capital Fund stood at $438,145, exceeding its approved ceiling of $438,000 by $145. At the same date, the balance of the Voluntary Trust Fund stood at $83,913, including accrued interest of $6,574. A total of $255,979 has been paid out of the Fund, which was established in 2002 to facilitate the participation of members of the Finance Committee and the Legal and Technical Commission from developing countries.

12. The report noted that the International Seabed Authority Endowment Fund for Marine Scientific Research in the Area, established in 2006, has to date disbursed $254,312 through six awards for activities that promote capacity-building. A total of 16 scientists from developing countries have received financial support, with the names and nationalities of a further 7 yet to be finalized. One award is currently enabling a researcher from Papua New Guinea to pursue studies at Duke University in the United States of America. The Fund's Advisory Panel had also recommended an award for the participation of two scientists from India in an investigation of the geology of the Shag Rock Passage on the North Scotia Ridge. During this year, funds will be provided for the participation of two scientists from developing countries in a research programme planned by the China Ocean Mineral Resources Research and Development Association in the Indian Ocean.

13. The Secretary-General encouraged members of the Authority, other States, relevant international organizations, academic, scientific and technical institutions, philanthropic organizations, corporations and private persons to contribute to the Endowment Fund.

14. A number of studies and workshops were also being planned or envisaged. An international workshop will be convened during 2010 to review further a proposal under consideration by the Legal and Technical Commission for the establishment of a network of areas of particular environmental interest in the Clarion-Clipperton fracture zone of the Central Pacific Ocean. The objective of the workshop will be to obtain the best possible scientific and policy advice on the formulation of an environmental management plan at the regional scale for the area.

15. A preliminary study by a group of experts is envisaged for the purpose of examining some of the issues associated with the development of an exploitation code, including relevant experience from offshore oil and gas development, as well as comparisons with fiscal regimes for land-based mining.

16. The report noted that an expert group meeting would be convened to help prepare draft recommendations to the Council and the Assembly on the implementation by the Authority of article 82, paragraph 4, of the Convention on the Law of the Sea. This covers payments or contributions in kind in respect of exploitation of non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

17. The report called for better cooperation and coordination among international organizations with mandates over activities in the oceans so as to ensure consistency of approach as well as comprehensive protection of the marine environment within and beyond national jurisdiction. The responsibilities and activities of the Authority should be considered in the broader context of developments within the law of the sea as a whole and the legal regime of the Area should also be fully respected.

18. In concluding observations, the report stated that the efforts of the current contractors involved with the Authority were primarily directed at long-term geologic and environmental studies, rather than commercially driven research and development. Investment in mining technology in particular remained at a very preliminary stage.

19. Statements on the report of the Secretary-General were made by the delegations of Argentina, Australia, Bangladesh, Brazil, Cameroon, Chile, China, Côte d'Ivoire, Cuba, Fiji, Germany, Ghana, India, Indonesia, Jamaica, Japan, Mexico, Namibia, Nicaragua, Nigeria, the Russian Federation, Senegal, South Africa, Spain, Trinidad and Tobago, Tunisia, Uganda, the United Republic of Tanzania and the United Kingdom of Great Britain and Northern Ireland. The observer delegation of the United Nations also made a statement.

20. Members of the Authority expressed their satisfaction with the annual report issued by the Secretary-General and indicated their support for the work that had been undertaken by the Authority.

21. Member States also spoke on a range of issues, including the status of assessed contributions of members to meet the expenses of the Authority and the need for timely adoption of the draft sulphides regulations.

22. Delegations supported and welcomed the interactions of the secretariat with the International Cable Protection Committee, the Secretariat of the Convention on Biological Diversity and the OSPAR Commission.

23. Delegations also expressed appreciation for the Authority's efforts to promote knowledge and understanding of deep sea ecology through the organization of technical workshops and sensitization seminars and requested that similar seminars continue to be held to promote the Authority and its work, subject to invitation by member States.

24. Some delegations commented on the work of the Commission on the Limits of the Continental Shelf, established under article 76, paragraph 8, and annex II of the United Nations Convention on the Law of the Sea, in considering data and information submitted by coastal States where those limits extend beyond 200 nautical miles.

25. Delegations urged the 22 members of the Authority that had not yet become parties to the 1994 Agreement relating to the Implementation of Part XI of the Convention to become parties to it as soon as possible. Delegations also welcomed Chad, the Dominican Republic and Switzerland, which had become parties to the 1994 Agreement in the previous year.

26. Delegations also urged member States that had not yet ratified the Protocol on the Privileges and Immunities of the Authority (ISBA/4/A/8, annex) to do so. It was noted that, as at 28 February 2009, 31 members were parties to the Protocol.

27. Delegations also expressed their appreciation for the Voluntary Trust Fund, noting that it had helped to ensure the participation of members from developing countries in meetings of the Legal and Technical Commission and the Finance Committee. Nigeria announced that it would be making a contribution to the Fund.

28. The value of the Endowment Fund was acknowledged by many delegations, who noted that it would help scientists from developing countries participate in activities in the Area, thus strengthening the concept of the common heritage of mankind. The delegation of the United Kingdom announced that it would be making a further contribution of $15,000 as an indication of the importance that the United Kingdom attached to the objectives of the Endowment Fund.

29. On 5 May, Ronald Robinson, Minister of State, Ministry of Foreign Affairs and Foreign Trade of Jamaica, made a statement to the Assembly in which he reiterated his Government's commitment to the International Seabed Authority and reassured the Authority of his country's support as host country.

30. Many delegations expressed their appreciation to the host country for its support of the Authority and the hospitality extended to representatives at sessions of the Authority.

VI. REPORT AND RECOMMENDATIONS OF THE FINANCE COMMITTEE

31. At its 129th meeting, on 6 May 2010, the Assembly considered the report of the Finance Committee (ISBA/16/A/5-ISBA/16/C/8). On the basis of the recommendations of the Council contained in document ISBA/16/C/10, the Assembly decided to adopt the budget for the financial period 2011-2012 in the amount of $13,014,700, and also recommended that observers attending and participating in the meetings of the Authority be urged to make voluntary contributions to the budget of the Authority, considering that they benefited from the facilities of the Authority.

32. The Assembly also decided to authorize the Secretary-General to establish the scale of assessments for 2011 and 2012 based on the scale used for the regular budget of the United Nations for 2010, taking into account that the maximum assessment rate will be 22 per cent and the minimum rate 0.01 per cent and that the rate of 16.587 per cent shall be applied in assessing the contribution of Japan to the budget of the Authority for 2011 and 2012. The decision of the Assembly relating to the budget of the Authority and related matters is contained in document ISBA/16/A/10.

33. The delegations of Mexico, Trinidad and Tobago and Cuba expressed their hope that, in the future, information on issues such as adjustment of scale of assessment would be passed on to members of the Authority in good time so as to allow for their consideration of the information in advance. The delegation of Nicaragua requested that the adjustment of the assessment scale be applied to both the ceiling rate and the floor rate so that both developed and developing countries could be treated equally. The delegation of Cuba reiterated its position with respect to fully supporting the decision of the Group of 77 and China on the issue and the application of all the methodologies utilized to assess contribution-related positions, and emphasized the financial implications that this adjustment would have for developing countries which were the worst affected by the economic recession.

VII. CONSIDERATION OF PROPOSED AMENDMENTS TO THE STAFF REGULATIONS OF THE AUTHORITY

34. At its 129th meeting, on 6 May 2010, the Assembly adopted the revisions to the Staff Regulations of the Authority. The decision is contained in ISBA/16/A/9.

VIII. CONSIDERATION AND APPROVAL OF THE REGULATIONS ON PROSPECTING AND EXPLORATION FOR POLYMETALLIC SULPHIDES IN THE AREA

35. At its 130th meeting, on 7 April 2010, the Assembly took note of the decision of the Council to adopt and apply provisionally, pending approval by the Assembly, the Regulations on prospecting and exploration for polymetallic sulphides in the Area as contained in ISBA/16/C/L.5. The Assembly approved the Regulations. The decision of the Assembly relating to the Regulations on prospecting and exploration for polymetallic nodules in the Area is contained in document ISBA/16/A/12.

IX. ELECTIONS TO FILL THE VACANCIES ON THE COUNCIL

36. At its 130th meeting, on 7 May 2010, the Assembly elected the following as members of the Council for a four-year period as from 1 January 2011, subject to the understandings reached in the regional and interest groups:

Group A

Italy [1]
Russian Federation

Group B

Republic of Korea
France
Germany

Group C

Australia
Indonesia [2]

Group D

Fiji
Jamaica
Egypt

Group E

Viet Nam
Qatar [3]
Cameroon
Côte d'Ivoire
Nigeria
Chile [4]
Mexico

The decision of the Assembly relating to the election to fill vacancies on the Council is contained in document ISBA/16/A/11.

X. REPORT OF THE CREDENTIALS COMMITTEE

37. At its 126th meeting, on 29 April 2010, the Assembly appointed a Credentials Committee, in accordance with rule 24 of its rules of procedure. The Committee was composed of Australia, China, Haiti, Namibia, the Russian Federation, Senegal, Spain, Suriname and Viet Nam. Amadou Dame Sall (Senegal) was elected by the Committee as its Chairman.

38. The Committee held one meeting, on 4 May 2010, during which it examined the credentials of representatives participating in the sixteenth session of the Assembly. The Committee had before it a memorandum by the Secretariat dated 4 May 2010 on the status of those credentials. The report of the Committee is contained in document ISBA/16/A/7.

39. At its 129th meeting, on 6 May 2010, the Assembly adopted the report of the Committee, with oral revisions as proposed by its Chairman. The decision of the Assembly relating to credentials is contained in document ISBA/16/A/8.

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1 It was agreed that Italy would relinquish its seat in Group A in favour of the United States of America if the United States became a member of the Authority; this does not prejudice the position of any country with respect to any intervening election to the Council.

2. Indonesia is elected for a four-year term as a member of Group C with the understanding that it will relinquish its seat to Chile after two years and will take up the seat in Group E that was previously occupied by Chile for the remainder of the four-year term.

3. Qatar is elected for a four-year term as a member of Group E with the understanding that it will relinquish its seat to Sri Lanka after two years for the remainder of the four-year term.

4. Chile is elected for a four-year term in Group E with the understanding that it will relinquish its seat to Indonesia after two years for the remainder of the four-year term.

XI. OTHER MATTERS

40. The delegation of Argentina drew the attention of the Assembly to some errors in the maps on the Authority's website, including political limits.

41. The Secretariat advised that as soon as the errors had been made known, the necessary corrections were made to the material in question and it explained that in relation to maps appearing in documents and publications and on the website, the Secretariat followed the guidance set out in the United Nations Terminology Bulletin in all references to names and designations and, in particular, included a disclaimer, based on that contained in the annex to administrative instruction ST/AI/189/Add.25/Rev.1 (20 January 1997), which read:

> The designations employed and the presentation of material on this map do not imply the expression of any opinion whatsoever on the part of the Secretariat of the Authority concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitations of its frontiers or boundaries.

42. The Secretariat regretted the error that might have occurred and expressed its gratitude to the delegation of Argentina for pointing out the discrepancy.

XII. DATE OF THE NEXT SESSION OF THE ASSEMBLY

43. The seventeenth session of the Assembly will be held from 25 April to 6 May 2011. It will be the turn of the Group of Asian States to propose a candidate for the presidency of the Assembly in 2011.

ISBA/16/C/3 Considerations relating to the functioning of the Legal and Technical Commission

Note by the Secretary-General

Date: 25 January 2010

1. Members of the Council will recall that, pursuant to article 163 (1), of the 1982 United Nations Convention on the Law of the Sea ("the Convention"), the Legal and Technical Commission was established as an organ of the Council. The Commission consists of 15 members, elected by the Council from among the candidates nominated by States Parties. Members of the Commission hold office for a term of five years and are eligible for re-election for a further term.

2. Following the previous regular election[1] of members to the Commission, which was held at the twelfth session, in 2006, the Council requested the Secretary-General to prepare a report on considerations relating to the future size and composition of the Commission for its consideration during the thirteenth session.[2] Subsequently, the Council decided that in order to avoid some of the difficulties that had arisen in connection with past elections to the Commission, it was necessary to streamline the procedures for future elections. Accordingly, in its decision ISBA/13/C/6 of 18 July 2007, the Council decided that the procedure for nominations of candidates for future elections to the Commission would be as follows:

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1. The present note is not concerned with elections to fill vacancies on the Commission in accordance with article 163 (7) of the Convention on the Law of the Sea, which have occurred every year since 1998 (except 2001 and 2002) and will continue to occur from time to time as necessary.
2. ISBA/13/C/2.

(a) At least six months before the opening of the session of the International Seabed Authority at which the election is to be held, the Secretary-General shall address a written invitation to all members of the Authority to submit their nominations of candidates for election to the Commission;

(b) Nominations for election to the Commission shall be accompanied by a statement of qualification or curriculum vitae setting out the candidate's qualifications and expertise in fields relevant to the work of the Commission and shall be received not less than three months prior to the opening of the relevant session of the Authority; nominations received less than three months prior to the opening of the relevant session of the Authority will not be accepted;

(c) The Secretary-General shall prepare a list in alphabetical order of the persons nominated for election to the Commission in accordance with paragraph (a) above, indicating the nominating member of the Authority, and containing an annex with the statements of qualification or curricula vitae submitted in accordance with paragraph (b) above; the list shall be circulated to all members of the Authority not less than two months prior to the opening of the session at which the election is to be held.

3. In the same decision, the Council also requested the Secretary-General, taking into account the views of the chairs of the Legal and Technical Commission, to prepare a report for consideration by the Council in 2010 on the functioning of the Commission, with a view to the Council determining in 2010 the number of members of the Commission to be elected in 2011. The present note responds to that request. In particular, the note considers the issues of the size and composition of the Commission and how these factors have affected the work of the Commission.

I. SIZE OF THE COMMISSION

4. Under article 163 (2) of the Convention, the Commission is to be composed of 15 members. However, if necessary, the Council may decide to increase the size of the Commission, giving due regard to economy and efficiency. The Council has made use of that provision by increasing the size of the Commission in all three elections to the Commission to date.

5. The first election of members to the Commission was held in August 1996, following the election of the first President of the Council. Following protracted and difficult negotiations on the election of the members of the Council and the Finance Committee, the President of the Council proposed that the Council take advantage of the flexibility inherent in article 163 (2) of the Convention and increase the number of seats on the Commission from 15 to 22, without prejudice to future elections. The Council decided accordingly to have all 22 nominees elected by acclamation.

6. The same procedure was repeated in 2001 and 2006 for the two subsequent elections to the Commission. The Council decided to approve all the candidacies that were submitted for membership, increasing the number of seats on the Commission from 15 to 24 in 2001 and to 25 in 2006. On each occasion, the decision was said to be taken without prejudice to future elections to the Council and claims of the regional groups and interest groups. Although the Council did not record its reasons for deciding to increase the size of the Commission on each occasion, it is apparent that the decision was motivated less by the actual or perceived workload of the Commission than by the desire to avoid a vote and to accommodate late nominations.

7. With 25 members, the size of the Commission exceeds the size of both the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf (each of which have 21 members). It should also be noted that article 165 (1) of the Convention provides that members of the Legal and Technical Commission will have appropriate qualifications, such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related fields of expertise, and that the Council will endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. The intent of the provision in article 163 (2), whereby the Council may decide to increase the size of the Commission, was designed to ensure that any

deficiencies in the expertise available to the Commission could be made up for by including additional disciplines that were not represented by the original 15 members elected to the Commission. It was not meant to provide increases for political convenience. If the latter were the case, the Convention would have established a higher number for the membership, such as 21, as was done for the Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf.

8. Furthermore, experience to date has shown that the number of members actually attending meetings of the Commission since 2003 has never exceeded 21 (see table 1). One effect of this is that the Commission has noted that it has not always been able to utilize all the expertise available from all its members. [3] It is important therefore that Member States, when submitting nominations of candidates for election to the Commission, ensure that such candidates will be in a position to participate on a regular basis in the meetings of the Commission.

Table 1
Summary of attendance at meetings of the Legal and Technical Commission, 2003 to 2009

	Total membership	*In attendance*	*Unable to attend*
2003	24	18	6
2004	24	20	4
2005	24	19	5
2006	24	17	7
2007	25	20	4
2008	25	21	4
2009	25	20	3

9. One of the concerns expressed about increasing the size of the Commission was that any increase in membership would have significant cost implications for the Authority, including a potential increase in the demands on the Voluntary Trust Fund to defray the costs of the participation of members from developing countries. In 2007, it was estimated that approximately $41,200 per annum would be needed to support the participation of such members (on the basis that 8 of the 25 members would need financial support). In practice, since 2004, the Voluntary Trust Fund has been used to support an average of six members per year at an average annual cost of approximately $31,000 (see table 2).[4]

Table 2
Summary of costs defrayed from the Voluntary Trust Fund towards supporting the participation of members of the Legal and Technical Commission in meetings of the Commission, from 2004 to 2009
(United States dollars)

Year	*Beneficiaries*	*Daily subsistence allowance*	*Airfare*	*Total*
2004	4	13 068.00	17 598.38	30 666.38
2005	7	18 640.00	17 470.32	36 110.32
2006	5	10 798.00	9 513.51	20 311.51
2007	6	14 579.00	11 463.72	26 042.72
2008	7	16 622.00	11 319.37	27 941.37
2009	9	26 457.00	18 943.52	45 400.52
Total	**38**	**100 164.00**	**86 308.82**	**186 472.82**

3. See ISBA/11/C/8, para. 29.

4. In comparison, in the same period only three members of the Finance Committee (which has 15 members) received support from the Voluntary Trust Fund each year.

II. COMPOSITION OF THE COMMISSION

10. In accordance with article 165 (1) of the Convention, members of the Legal and Technical Commission are required to possess "appropriate qualifications such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related fields of expertise". There is no specific requirement in the Convention in relation to regional representation. Instead, the Convention simply provides that due account shall be taken of the need for equitable geographical distribution and the representation of special interests.[5]

11. The Council has taken various steps to ensure that the membership of the Commission reflect an appropriate balance of qualifications and expertise. For example, at the second election of the Commission (2001), the Council requested the Secretariat to provide the Council with an indication of the likely programme of work for the Commission prior to each session, so that members of the Council could make informed judgements on the type of qualifications needed for members of the Commission.

12. At the twelfth session (2006), the outgoing Commission was asked to share with the Council its experience on the expertise required by the Commission for its effective functioning. In response, the Commission stated that there was a need to preserve as wide a range of disciplinary expertise as possible. It specifically noted the need for specialists in certain key disciplines, including marine biology, mining engineering and mining economics. The Commission further acknowledged that it was unlikely to be able to provide every type of expertise in order to fulfil its wide remit of work. For this reason, the Commission recalled that, when necessary, expertise had been sought outside the membership by the Secretariat to bring additional specialist knowledge and skills to its work. This practice was viewed as an essential process, which should continue.

13. An information note on matters for consideration by the organs of the Authority has been circulated to all members of the Authority each year since 1997. The information note includes an overview of the workload of the Commission at each session of the Authority. Moreover, in 2004, and again in 2008, the Assembly approved three-year work programmes for the Authority, which also contain information on the activities of the Commission and the anticipated workload over the next three-year period. Furthermore, at each session, the Council is informed of the work that the Commission carries out in a report that the Chairman of the Commission presents to the Council. The information provided indicates the nature of the expertise that the Commission needs in performing its activities.

14. In practice, it is evident that the members of the Commission have been drawn from a wide variety of disciplines, including law, marine biology, geochemistry, oceanography, geology, geophysics and engineering. It is also true, however, that some disciplines that may be of relevance to the work of the Authority, including mineral economics and commercial mining, have not been well represented on the Commission.

15. One issue to consider is the desirability of continuity in the membership of the Commission. Although members of the Commission may be re-elected for a second term, and many members have in fact served two terms of office, there is no provision to ensure continuity of membership as a whole. This may cause difficulties where, for example, an election is held when the Commission is part-way through dealing with a particular issue on which specialist knowledge is required. Because the entire membership of the Commission changes, there is very little continuity and changes in the balance of expertise on the Commission may then cause a delay in producing recommendations for the Council to consider. The system in many other bodies, including the Council itself, as well as the International Tribunal for the Law of the Sea, is for one half or one third of the membership to change at each election so that there is continuity of membership.

5. See article 163 (4) of the Convention.

III. RECOMMENDATIONS

16. The Council is invited to take note of its decision ISBA/13/C/6, relating to the procedure for the nominations of candidates for future elections to the Commission and to apply this procedure to the forthcoming elections to be held in 2011.

17. The Council is further invited to give consideration to the issues identified in the present note and to provide any necessary direction relating to the size and composition of the Commission to be elected in 2011.

ISBA/16/C/4 Amendments to the Staff Regulations of the International Seabed Authority

Note by the Secretariat

Date: 25 January 2010

I. INTRODUCTION

1. The purpose of the present note is to introduce and explain a number of proposed amendments to the Staff Regulations of the International Seabed Authority. The proposed amendments are made necessary by changes to the Staff Regulations of the United Nations, on which those of the Authority are based, and in particular by the abolition, with effect from 31 December 2009, of the United Nations Administrative Tribunal and the reform of the system of administration of justice within the United Nations.

2. It will be recalled that the Staff Regulations of the Authority were approved by the Assembly on 10 July 2001 (ISBA/7/A/5), having been applied provisionally since 2000 following their adoption by the Council at the sixth session. Prior to 2000, the Authority had applied, mutatis mutandis, the Staff Regulations of the United Nations in accordance with the Assembly's decision of 29 August 1996 (ISBA/A/15).

3. It is proposed to make amendments to the Staff Regulations of the Authority in order to: (a) recognize the competence of the new United Nations Appeals Tribunal to hear and pass judgement on applications filed by staff members of the Authority; and (b) at the same time, reflect a number of changes that have been made to the Staff Regulations of the United Nations since the Staff Regulations of the Authority were adopted.

II. PROPOSED AMENDMENTS TO THE STAFF REGULATIONS OF THE INTERNATIONAL SEABED AUTHORITY

A. Extension of competence of the United Nations Appeals Tribunal

4. It should be recalled that on account of the privileges and immunities enjoyed by the United Nations and other international organizations, staff members do not in principle have access to national courts at the duty station in relation to employment-related grievances and disciplinary matters. As a legal corollary, those organizations are institutionally required to offer their personnel a recourse machinery for employment-related disputes. Therefore, in implementing the Staff Regulations, the Authority, like the International Tribunal for the Law of the Sea and a number of the specialized agencies of the United Nations, decided to accept the jurisdiction of the United Nations Administrative Tribunal as the appropriate body to hear and pass judgement at the appellate level upon applications from staff members alleging non-observance of their terms and conditions of employment pursuant to article 2 of the statute of the Administrative Tribunal. In the case of the Authority and the International Tribunal for the Law of the Sea, the decision to use the United Nations Administrative Tribunal as the final appellate

body for this purpose was made possible as a result of General Assembly resolution 52/166, which extended the competence of the Administrative Tribunal to the staff of any international organization or entity established by treaty and participating in the United Nations common system of conditions of service, upon the terms to be set out in a special agreement concluded for that purpose. Such an agreement was concluded in 2003 by means of an exchange of letters between the Secretary-General of the Authority and the Secretary-General of the United Nations. Thus, one of the features of the Staff Regulations of the Authority is that, by virtue of regulation 11.2, the United Nations Administrative Tribunal is established as the final appellate body for the resolution of disputes between staff members and the Authority.

5. On 24 December 2008, the General Assembly adopted resolution 63/253 on the administration of justice at the United Nations. This brought to a conclusion a process of reform of the internal system of administration of justice at the United Nations, which itself was borne largely out of recommendations made by a Redesign Panel on the United Nations system of administration of justice, a consultative body comprised of international experts in international administrative law. In essence, the Panel had recommended a revamping of the justice system, primarily in order to address perceived deficiencies of the existing system, in particular the lack of independence of the members of the different appeals bodies, transparency and professionalism, as well as excessively slow proceedings.

6. One of the cornerstones of the new system of administration of justice at the United Nations is the abolition, with effect from 31 December 2009, of the joint appeals boards and the United Nations Administrative Tribunal and the establishment of two newly-constituted tribunals, the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. The latter replaces the United Nations Administrative Tribunal, the second-level appeals body currently available for staff of the Authority. It is thus necessary to address the implications for the Authority of the changes that have been implemented in the United Nations.

7. The new system of justice in the United Nations concerns only the United Nations and its separately administered programmes and funds. It does not automatically apply to the so-called Article 14 entities, including the Authority. For this reason, the United Nations contacted the Authority and other Article 14 entities with a view to ascertaining in what manner those entities would wish to participate in the new system of justice. It provided them with two options: (1) to retain one level of judicial review by the United Nations Appeals Tribunal, acting essentially similarly to the former Administrative Tribunal; or (2) to accept the jurisdiction of both the United Nations Dispute Tribunal and the United Nations Appeals Tribunal and to participate fully in the new system.

8. Staff members of the Authority currently have the right to appeal an adverse administrative decision or disciplinary measure to a Joint Appeals Board in accordance with staff rule 111.1. The filing of an appeal with the Board is predicated upon the timely submission of a request for review (administrative review) by the staff member. As constituted under chapter XI of the Staff Rules, the Joint Appeals Board is composed of a Chairman appointed by the Secretary-General after consultation with the Staff Committee, members (currently three) appointed by the Secretary-General and an equal number of members elected by the staff. Members of the Board are selected on the basis of their present or previous experience in the United Nations system or with the Authority. The Joint Appeals Board does not render binding decisions but issues opinions and recommendations which are submitted to the Secretary-General for decision. The Secretary-General may accept or reject the recommendation of the Board, and in case of an unfavourable decision, a staff member may lodge an appeal against the decision of the Secretary-General to the United Nations Administrative Tribunal.

9. In considering the available options, the single-tier option was deemed preferable on the grounds that it is easy to implement, relatively cost-efficient and fundamentally akin to the current system used by the Authority. To date, no actual experience as to the functioning of the new system can be drawn, and it appears inappropriate to commit the Authority in any way to a process whose validity and efficiency remain yet to be demonstrated. In addition, the administrative structures and organizational changes which would likely be necessary in order to accommodate a transposition of the new United Nations model to the Authority appear to be disproportionate given the Authority's size and internal needs. For comparative purposes, in the year 2007, the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi had a total combined number of 177 appeals filed with them. In contrast,

in the entire period since its establishment, only two appeals have been lodged with the Authority's Joint Appeals Board, and only one case has reached the Administrative Tribunal.

10. Furthermore, it appears to the secretariat that the anticipated costs for the Authority to participate in a two-tier system of formal justice would be inordinately high, since it would be required to contribute to the costs of the first-tier Disputes Tribunal on an ongoing basis. Those costs could be substantial. On the other hand, for access to the Appeals Tribunal, the Authority would be charged a flat fee per case of $9,600, which would be absorbed within the current budgetary resources and would have no financial implications for the future budget of the Authority.

11. For those reasons, having considered the available options, the secretariat of the Authority had confirmed its intention to the United Nations to retain, subject to confirmation by the Council and Assembly, a single-tier judicial review under the new system and to maintain, to the greatest extent possible, the current administrative structure of the Authority's internal system of justice; namely the continuation of the Joint Appeals Board, complemented by access to a formal judicial appeal body in the form of the new United Nations Appeals Tribunal. It is understood that other article 14 entities, including the International Maritime Organization, the International Civil Aviation Organization and the International Tribunal for the Law of the Sea, have adopted a similar approach.

12. To give effect to the new system, it is necessary for the Authority to enter into an administrative agreement with the United Nations recognizing the competence of the new Appeals Tribunal and to make appropriate amendments to the Staff Regulations and Rules of the Authority. Following discussions between the secretariat of the Authority and the United Nations Office of Administration of Justice, an administrative agreement, based on a model developed by the United Nations for application to all article 14 entities, was concluded in February 2010. The text of the agreement is set out in annex I to the present note. Proposed changes to article XI of the Staff Regulations of the Authority are set out in annex II. These proposed amendments are consistent with similar amendments made to the Staff Regulations of the United Nations (see ST/SGB/2009/7).

13. It should be noted that once the amendments to the Staff Regulations are approved, it will also be necessary to make consequential amendments to the Staff Rules of the Authority. This will be done and reported to the Assembly and Council in due course.

B. Other proposed amendments

14. In the past two years, the United Nations has implemented a number of significant management changes, which have resulted in amendments to its Staff Regulations (see General Assembly resolution 63/253). Of particular relevance to the Authority are the following:

(a) The abolition of the 100, 200 and 300 series of the Staff Rules (a system which the Authority never applied, but was reflected in its Staff Regulations and Rules for the sake of consistency with the United Nations) and their merger into a unique set of staff rules applicable to all appointments;

(b) Formal recognition of a right to paternity leave;

(c) Formal recognition that sexual exploitation and sexual abuse constitute serious misconduct and thus justify summary dismissal.

15. It appears convenient to introduce appropriate amendments, as set out in annex II, to bring the Staff Regulations of the Authority into line with those of the United Nations in this regard.

III. RECOMMENDATIONS

16. The Council is invited to:

(a) Take note of the agreement between the United Nations and the International Seabed Authority extending the competence of the United Nations Appeals Tribunal to the Authority with respect to applications alleging non compliance with the terms of appointment or contracts of employment of staff members of the Authority as set out in Annex I;

(b) Adopt and apply provisionally, pending approval by the Assembly, the amendments to the Staff Regulations of the Authority as set out in annex II.

Annex I

Agreement between the United Nations and the International Seabed Authority

Extending the competence of the United Nations Appeals Tribunal to the International Seabed Authority with respect to applications alleging non-compliance with the terms of appointment or contracts of employment of staff members of the International Seabed Authority

Whereas, the International Seabed Authority is an international organization or entity established by a treaty and participating in the common system of conditions of service;

Whereas, the International Seabed Authority utilizes a neutral first instance process that includes a written record and a written decision providing reasons, fact and law;

Now, therefore, the International Seabed Authority and the United Nations, hereinafter referred to as the "Parties", where appropriate, have agreed as follows:

Article 1

As soon as feasible following the conclusion of this Agreement, the International Seabed Authority (hereinafter referred to as the "Authority") shall promulgate amendments to its Staff Regulations recognizing the competence of the United Nations Appeals Tribunal (hereinafter referred to as the "Appeals Tribunal").

Article 2

1. The Appeals Tribunal shall be competent to hear and pass judgement on an application filed by staff members of the Authority:

(a) To appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms "contract" and "terms of appointment" include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance;

(b) To appeal an administrative decision imposing a disciplinary measure.

2. Such application may be filed by:

(a) Any staff member of the Authority;

(b) Any former staff member of the Authority;

(c) Any person making claims in the name of an incapacitated or deceased staff member of the Authority.

3. In the event of a dispute as to whether the Appeals Tribunal has competence, the matter shall be settled by the decision of the Appeals Tribunal.

4. The Appeals Tribunal shall be competent to deal with an application notwithstanding that the cause of complaint may have arisen prior to the operative date of this Agreement. For the purposes of determining the receivability of an application pursuant to article 7 of the Statute of the Appeals Tribunal, an application shall be receivable if filed within 90 calendar days of receipt of the decision by the Secretary-General of the Authority.

5. An application shall not be receivable unless the person concerned has previously submitted the dispute to the neutral first instance process provided for in the Staff Regulations of the Authority and the latter has communicated its opinion to the Secretary-General, except where the Secretary-General and the applicant have agreed to submit the application directly to the Appeals Tribunal.

6. For the purposes of this Agreement, references to the Secretary-General contained in article 9 of the Statute of the Appeals Tribunal shall be deemed to refer to the Secretary-General of the Authority.

7. In the event that the Appeals Tribunal receives an application which the neutral first instance process considers devoid of merit or frivolous, the Appeals Tribunal may award costs against the applicant, in accordance with article 9, paragraph 2, of its Statute.

Article 3

1. In accordance with article 10 of the Statute of the Appeals Tribunal, the judgements of the Tribunal shall be final and without appeal, subject to the provisions of article 11 of the Statute.

2. The Authority shall be bound by the judgements of the Appeals Tribunal and be responsible for the payment of any compensation awarded by the Appeals Tribunal in respect of its own staff members.

3. The Authority shall be responsible for the payment of a flat fee of 9,600 United States dollars per case, which will be charged by invoice at the time of submission of the case to the Appeals Tribunal. Payment shall be made by the Authority in a single instalment within thirty (30) days from the receipt of the invoice to the following United Nations bank account:

Bank Name:	JP Morgan Chase Bank (formerly Chase Manhattan Bank) International Agencies Banking
Bank Address:	1166 Avenue of the Americas, 16th Floor, New York, NY 10036-2708
Account Number:	485-0019-69
Swift:	CHASUS33
ABA:	021-000-021
Account Title:	United Nations General Trust Fund
Beneficiary:	United Nations Office of Administration of Justice
Currency:	United States dollars

4. This flat fee of the cost per case shall be reviewed by the United Nations and may be adjusted by mutual agreement of the Parties at the end of 2011, and thereafter biennial, to ensure accurate reimbursement for the services rendered.

Article 4

1. The administrative arrangements necessary for the functioning of the Appeals Tribunal with respect to cases arising under this agreement shall be made by the Secretary-General of the United Nations, in consultation with the Secretary-General of the Authority. Should the President of the Appeals Tribunal designate the headquarters of the Authority as the place for convening a session of the Appeals Tribunal for the purpose of considering a case or a group of cases arising pursuant to this agreement, the Authority shall provide the premises, arrangements and facilities for the session free of charge to the United Nations.

2. Expenses not already covered by the flat fee set out in article 3, paragraph 3, of this agreement, which may be incurred in connection with the proceedings of the Appeals Tribunal specially required for dealing with cases arising under this agreement, shall be borne by the Authority. Such expenses would include the travel and related costs for staff under article 5, paragraph 1, of the Statute, or for witnesses. Before incurring the additional expenses, the Registrar of the Appeals Tribunal shall inform the Secretary-General of the Authority of an estimate of the additional expenses and the reasons for incurring them, as well as the possibility of alternative arrangements.

Article 5

1. The effective date of this Agreement shall be 1 July 2009.

2. The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Agreement.

3. This Agreement may be amended by written consent of the Parties.

4. Each Party may terminate this Agreement for cause by giving six months' written notice.

This Agreement has been duly signed in duplicate in two originals in the English and French languages on the date appearing under the signatures.

For the United Nations:
BAN Ki-moon
Secretary-General

For the International Seabed Authority:
Nii Allotey **Odunton**
Secretary-General

Annex II [omitted]

ISBA/16/C/5 Draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area

Note by the Secretariat

Date: 25 February 2010

1. The purpose of the present document is to provide necessary background to the draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area ("the draft cobalt crusts regulations") as contained in document ISBA/16/C/WP.2 which are currently before the Council for its consideration. The draft cobalt crusts regulations were adopted by the Legal and Technical Commission in 2009 for consideration by the Council during the sixteenth session of the Authority.

I. BACKGROUND AND PROGRESS TO DATE

2. Members of the Council will recall that, at the resumed fourth session in 1998,[1] the delegation of the Russian Federation formally requested the Authority to develop regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts. In 1999, the Secretariat prepared a preliminary review of the status of knowledge and research regarding these resources. To assist in advancing the drafting process, it convened a workshop in June 2000 on the characteristics of and prospects for resources other than polymetallic nodules in the Area. The Secretariat summarized the outcomes of that workshop in document

1. For a detailed chronology, with references to relevant documents, see the annex to the present document.

ISBA/7/C/2, which also contained model clauses for the issues to be addressed in the development of a regime for prospecting and exploration of sulphides and crusts. Following extensive discussions, the Council decided to further consider the possible elements of the future regime for prospecting and exploration, for both polymetallic sulphides and cobalt-rich ferromanganese crusts, at the eighth session in 2002. While keeping the matter on its agenda, the Council requested the Secretariat to provide more background information, and requested the Legal and Technical Commission to begin its consideration of the issues associated with the elaboration of the draft regulations on prospecting and exploration.

3. During the eighth session in 2002, the Secretariat invited experts at a one-day seminar to make presentations on the status and environmental context of, and prospects for, polymetallic sulphides and cobalt crusts. With assistance from the Secretariat and external experts, the Legal and Technical Commission, undertook a preliminary consideration of the approaches set out in the Secretariat's document (ISBA/7/C/2). In its initial conclusions, the Commission insisted on the need to proceed cautiously and logically in developing the regulations. Moreover, in the light of the uncertainties relating to prospecting and exploration for the resources concerned, any regulatory system for prospecting and exploration should be reviewable after an initial period. While creating incentives for potential prospectors by means of rights over certain areas and priority of application for exploration contracts, it was also essential that the Authority should obtain relevant data and information, in particular in respect of the protection and preservation of the marine environment. The Commission requested the Secretariat to gather additional information for its resumed consideration of three elements in 2003: the adoption of a progressive fee system instead of a relinquishment system; an appropriate grid system for allocation of a commercially viable exploration area that avoids monopoly situations; and a participatory system for the Authority. Benefiting from the presentations made at the seminar and from the parallel considerations of the Commission, the Council further discussed the issues involved in the draft regulations, encouraging a flexible approach consistent with the United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, which can compete with similar regulatory frameworks in place under municipal legislations. The Council decided to keep the matter under consideration at its following session.

4. During the ninth session in 2003, the Commission had before it an extensive set of draft regulations based on the existing regulations on prospecting and exploration for polymetallic nodules and including the model clauses set out in document ISBA/7/C/2, along with elements that had emerged from discussions in the Council and in the Commission during 2002. The Commission held a two-week meeting in 2003. During the first week, it convened informal working groups to conduct a detailed consideration of the three main issues identified in 2002. The Commission took the view that the basic procedures for the submission and approval of applications, and most of the standard clauses, should be the same as those for nodules, with necessary adjustments to reflect the differences in the nature, distribution and political and economic context of sulphides compared to crusts. The adjustments would relate to prospecting, the size of the allocation area for exploration, the application of the site-banking system and the procedure for settlement of overlapping claims. Proposals were made in the light of developments in international environmental law since 1982 and the limited scientific knowledge available. At the end of its session, the Commission requested the Secretariat to prepare a consolidated set of draft regulations reflecting the discussions and proposals of the working groups, to assist the continued consideration of the matter in 2004. The Commission further requested the Secretariat to provide an informative paper to facilitate a more focused review of the outstanding issues. The Council took note of the progress made by the Commission, recalling the need to proceed in a technically sound and timely manner, and decided to keep the matter under consideration at the following session, in parallel with the ongoing development of draft regulations by the Commission.

5. During the tenth session in 2004, to facilitate final deliberations by the Commission, the Secretariat prepared a complete set of draft regulations, based on the nodules regulations, the model clauses and elements of discussion that had emerged from the Commission in 2002 and in 2003. During the first week of the session, the deliberations of the Commission also benefited from input by three experts, in particular on matters relating to the size of the exploration area and the environmental context of sulphides and crusts. After intensive discussions, the Commission expressed the view that the size of the exploration area for both resources should be 10,000 square

kilometres, and that a high percentage of relinquishment would be appropriate in the light of the probably large areas of poor resources. The Commission completed its review of the draft regulations, underlining that future regulations should follow the framework of the existing nodules regulations and conform with the Convention and the Implementation Agreement. The Commission submitted its recommendations to the Council for consideration at the tenth session. Lack of time prevented a detailed reading by the Council.

6. During the eleventh session in 2005, the Council completed a first reading of the draft regulations recommended by the Commission (ISBA/10/C/WP.1), with the assistance of explanatory notes or the rationale behind some of the key elements, which had been prepared by the Secretariat. The notes focused on six areas of uncertainty that had emerged from the deliberations of the Council in 2004, namely, (a) the establishment of a single set of regulations for both resources, instead of a set for each type; (b) the definition of a block size as 10 by 10 kilometres; (c) the decision that up to 100 blocks may be allocated to an exploration programme; (d) the requirement for contiguity of blocks before relinquishment; (e) the rate and apportionment of blocks during relinquishment; and (f) greater emphasis on the protection and preservation of the environment at the prospecting and exploration phases. The Council requested the Secretary-General, in consultation, as necessary, with the Legal and Technical Commission, to provide further explanation and analysis relating to the key elements around which the deliberations revolved. The Council further commented on the need for an appropriate provision, consistent with the Convention and the Agreement, on resolving overlapping claims submitted by different applicants. The Council also pointed out that the draft regulations did not fully reflect the anti-monopoly provisions contained in annex III to the Convention. Subsequently, the Council agreed to resume its consideration of the draft regulations in 2006 and requested the Secretariat to prepare a revised set of draft regulations reflecting the progress made during the session. To further assist its review, the Council also requested the Secretariat to provide technical papers and clarifications on the key elements of the draft regulations that required further consideration.

7. At the twelfth session in 2006, the Council resumed its consideration of the draft regulations as contained in document ISBA/10/C/WP.1/Rev.1, having before it a set of technical information papers (ISBA/12/C/2, Parts I-III, and ISBA/12/C/3, Parts I and II) prepared by the Secretariat and introduced with the assistance of two technical experts, James Hein and Charles Morgan. In addition, the Council was provided with the preliminary outcomes of a workshop on the technical and economic considerations relating to the mining of polymetallic sulphides and cobalt-rich crusts convened by the Secretariat immediately before the twelfth session. At the request of the Council, the Secretariat prepared a summary of the possible adjustments to the draft regulations recommended at the workshop (ISBA/12/C/7). The delegation of the Russian Federation also submitted a proposal relating to the draft regulations (ISBA/12/C/6). Following an exchange of views on the way to address the outstanding technical issues associated with the draft regulations, the Council decided to separate the draft regulations into two sets, one for each resource, and requested the Secretariat to prepare two sets of draft regulations, to be revised in the light of the outcomes of the workshop and of the presentations, proposals and discussions conducted during the twelfth session. The Council also requested the Commission to review the draft sulphides regulations as a matter of priority, to enable their further consideration by the Council in 2007, and requested the incoming Commission to review the draft crusts regulations and submit its recommendations to the Council in 2008.

8. Given the decision of the Council in 2006 to draft separate sets of regulations on polymetallic sulphides and cobalt crusts, the legislative history of the two sets has evolved in parallel since the thirteenth session in 2007. In accordance with the Council's request, the Secretariat revised the cobalt crusts draft regulations (ISBA/13/LTC/WP.1) for review by the Legal and Technical Commission. The revised draft was based on document ISBA/10/C/WP.1/Rev.1 and incorporated technical adjustments in line with the recommendations of the workshop on technical and economic considerations relating to mining polymetallic sulphides and cobalt-rich crusts in the Area held from 31 July to 4 August 2006. The Secretariat also prepared a note summarizing the progress made in respect of the draft regulations (ISBA/13/LTC/1). In its review, the Commission decided to focus its consideration on two sensitive questions: the size of the allocated area for exploration, and the progressive fee system. While there was agreement concerning the use of a block system, the main divergence of views concerned the configuration of the blocks and the size of the overall area to be allocated for exploration and, ultimately, exploitation. The Commission found the background information insufficient to make a recommendation to the Council on the

design of a system for site allocation for exploration. The Commission decided to pursue its work during the fourteenth session.

9. During the fourteenth session in 2008, the Legal and Technical Commission resumed its consideration of the draft crusts regulations. The Commission decided that, in the light of the available knowledge and given the need to complete its review in a timely manner, it was appropriate to finalize a recommendation to the Council at that session. The Commission proposed a number of revisions to document ISBA/13/LTC/WP.1. In particular, it recommended that the basic unit for defining the exploration area for cobalt crusts should be a 20-square kilometre block. The maximum exploration area would consist of up to 100 such blocks that could be arranged in non-contiguous clusters within a geographical area of 550 kilometres by 550 kilometres. The Commission recommended a progressive fee system that should be reviewed by the Council every five years. It also endorsed the idea of including a clause on the automatic review of the regulations every five years or whenever necessitated by the development of scientific knowledge. The Commission also considered it important to include an anti-monopoly provision in both the crusts and draft sulphides regulations. The purpose was to prevent multiple applications by affiliated applicants in excess of the overall size limitations (2,000 square kilometres in the case of crusts and 10,000 square kilometres in the case of sulphides). The Commission requested the Secretariat to prepare a revised text (ISBA/14/LTC/CRP.6)[2] incorporating the Commission's recommendations and aligning the text of the draft crusts regulations with the adjustments to the draft sulphides regulations agreed by the Council in 2007 (ISBA/13/C/CRP.1). The Commission further requested the Secretariat to align document ISBA/14/LTC/CRP.6 with any adjustments to the draft sulphides regulations made by the Council later in 2008. The Commission indicated its intent to review that document (ISBA/15/LTC/CRP.1), with a view to formally adopting it for submission to the Council at the fifteenth session.

10. During the fifteenth session in 2009, the Commission adopted the revised text of the draft crusts regulations contained in document ISBA/15/LTC/CRP.1 as its recommendation to the Council for consideration at the sixteenth session.

II. COMMENTARY AND ACTION BY THE COUNCIL

11. The Council is invited to take note of the background to the development of the draft regulations on prospecting and exploration for cobalt crusts, as described above. Essentially, it should be noted that there has been a constant exchange of views and interaction between the Council and the Commission throughout the drafting process. The Commission has also been careful to ensure that, as far as possible, the draft crusts regulations are fully aligned with the draft sulphides regulations under consideration by the Council. As a result, most of the cobalt crusts draft regulations are identical to the draft regulations on polymetallic sulphides, which, in turn, are based on the existing regulations on polymetallic nodules. Some further alignment of the crusts regulations will be required, to take into account revisions to the sulphides regulations agreed by the Council in 2009 and 2010. This will be provided by the Secretariat in due course.

12. The main substantive areas of difference between the two sets of draft regulations relate to: (a) the question of the size and configuration of the area to be allocated for exploration (regulation 12); and (b) the progressive fee system (regulation 21).

13. The Council is also invited to review the draft crusts regulations during the sixteenth session, following the adoption of the draft regulations on polymetallic sulphides.

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2. Documents issued as conference room papers under the CRP symbol are circulated in their original language only and are not translated.

Annex

Chronology of the development of the draft regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area

Year	*Event*	*Reference*
1998	The Russian Federation requests the Authority to develop regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts.	ISBA/4/A/18
2000	The Authority convenes an international scientific workshop on the status and prospects for seabed minerals other than polymetallic nodules.	Kingston 26-30 June 2000
2001	Following the adoption in 2000 of the regulations on prospecting and exploration for polymetallic nodules, the Secretariat presents a report to the Council on considerations relating to the regulation of prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts, including a summary of the outcomes of the 2000 workshop and draft model clauses.	ISBA/7/C/2
	The Council decides to continue its consideration of the issues at the next session and requests the Secretariat to provide additional background information. It also decides that the Legal and Technical Commission should commence consideration of the regulations.	ISBA/7/C/7
2002	A one-day technical seminar is held during the eighth session of the Council to provide members of the Council with additional information about polymetallic sulphides and cobalt-rich ferromanganese crusts and the marine environment in which they occur.	ISBA/8/A/1 and Corr.1 ISBA/8/C/7
	The Legal and Technical Commission begins consideration of the issues associated with the proposed regulations.	ISBA/8/C/6
2003	The Legal and Technical Commission meets for two weeks. During the first week, it breaks into informal working groups for detailed consideration of specific technical issues. The Secretariat is asked to prepare a consolidated draft of the regulations, taking into account the discussions from 2002 and 2003.	ISBA/9/LTC/5 and ISBA/9/C/4
2004	The Legal and Technical Commission completes its work on the draft regulations covering both resources and submits the outcome of its work to the Council. The Council has insufficient time for a detailed review of the draft.	ISBA/10/LTC/WP.1 ISBA/10/C/WP.1 ISBA/10/C/10
2005	The Council undertakes a first reading of the draft prepared by the Legal and Technical Commission. It identifies substantive issues for further consideration and requests the Secretariat to prepare a revised text incorporating minor revisions arising from the first reading.	ISBA/10/C/WP.1/Rev.1 ISBA/11/C/5 (explanatory notes)
2006	(March) The Authority convenes an international scientific workshop on cobalt-rich crusts and the diversity and distribution patterns of seamount fauna.	Kingston 26-31 March 2006

Year	*Event*	*Reference*
	(July) Immediately prior to the twelfth session, the Authority convenes an international workshop on technical and economic considerations relating to mining of polymetallic sulphides and cobalt-rich ferromanganese crusts. A summary of the workshop recommendations is presented to the Council.	ISBA/12/C/7
	(August) During the twelfth session, the Secretariat presents a paper to the Commission on the outcomes of the workshop held in March 2006 on cobalt-rich crusts and the diversity and distribution patterns of seamount fauna.	ISBA/12/LTC/CRP.2
	The Council resumes consideration of the draft regulations, which still covers both resources. The Secretariat provides additional clarification on critical issues, as requested by the Council, and provides a technical briefing, with the assistance of experts.	ISBA/12/C/2, Parts I-III ISBA/12/C/3, Parts I and II ISBA/10/C/WP.1/Rev.1
	The Russian Federation submits a draft proposal relating to the draft regulations.	ISBA/12/C/6
	By the end of the twelfth session, the Council decides to request the Secretariat to further revise the draft regulations in the light of the outcomes of the technical workshop and of the presentations, proposals and discussions of the Council. The Council decides further that separate sets of regulations will be prepared for polymetallic sulphides and cobalt-rich ferromanganese crusts, and that the draft regulations on polymetallic sulphides should be circulated to the members of the Legal and Technical Commission before the end of 2006, so that the Council can be in a position to give them substantive consideration in 2007.	ISBA/12/C/12
2007	(May) The Secretariat prepares a revised text of the draft crusts regulations, together with an explanatory note. The revised draft is based on document ISBA/10/C/WP.1/Rev.1, with technical adjustments in line with the recommendations made by the workshop on technical and economic considerations relating to both resources. The main substantive changes relate to a new formula for determining the size of the exploration area, the relinquishment schedule and the participation by the Authority.	ISBA/13/LTC/WP.1 ISBA/13/LTC/1
	(July) The Legal and Technical Commission begins consideration of the draft regulations on cobalt-rich ferromanganese crusts prepared by the Secretariat. The Commission focuses its consideration on two sensitive issues, the size of the area to be allocated for exploration and the progressive fee system, but considers that the background information available to date is not sufficient to provide a recommendation to the Council on any given system for site allocation for prospecting and exploration.	ISBA/13/C/3
2008	The Secretariat prepares a review of outstanding issues relating to the draft sulphides regulations and containing suggested language. This also serves for the draft crusts regulations under review by the Commission.	ISBA/14/C/4

Year	*Event*	*Reference*
	The Legal and Technical Commission resumes its consideration of the draft crusts regulations. At the end of the session, the Commission requests the Secretariat to prepare a revised text incorporating the revisions proposed during the meetings of the Commission and aligned with the informal text of the draft sulphides regulations as agreed by the Council during the thirteenth session (ISBA/13/C/CRP.1).	ISBA/14/C/8 ISBA/14/LTC/CRP.6
2009	(January) The Secretariat prepares an updated version of ISBA/14/LTC/CRP.6 issued at the end of the fourteenth session. The updated version incorporates all the revisions proposed by the Legal and Technical Commission during the fourteenth session (2008) and is aligned with the revised text of the draft sulphides regulations contained in document ISBA/15/C/WP.1 and Corr.1. The Secretariat also updates background information on the status of the draft crusts regulations.	ISBA/15/LTC/CRP.1 ISBA/15/LTC/3 ISBA/15/C/WP.1/Rev.1
	The Council resumes its consideration of the draft sulphides regulations. At the end of the session, the Council requests the Secretariat to prepare a revised text based on the discussions and proposals in the Council during the thirteenth, fourteenth and fifteenth sessions.	ISBA/15/C/5 ISBA/15/LTC/CRP.1
	The Commission adopts its recommendations on the draft crusts regulations and decides to submit them to the Council.	
2010	The revised draft crusts regulations as recommended by the Commission are translated and proposed to the Council for consideration.	ISBA/16/C/WP.2

ISBA/16/C/6 Proposal to seek an advisory opinion from the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea on matters regarding sponsoring State responsibility and liability

Submitted by the delegation of Nauru

Date: 5 March 2010

1. In 2008 the Republic of Nauru sponsored an application by Nauru Ocean Resources Inc. for a plan of work to explore for polymetallic nodules in the Area. Nauru, like many other developing States, does not yet possess the technical and financial capacity to undertake seafloor mining in international waters. To participate effectively in activities in the Area, these States must engage entities in the global private sector (in much the same way as some developing countries require foreign direct investment). Not only do some developing States lack the financial capacity to execute a seafloor mining project in international waters, but some also cannot afford exposure to the legal risks potentially associated with such a project. Recognizing this, Nauru's sponsorship of Nauru Ocean Resources Inc. was originally premised on the assumption that Nauru could effectively mitigate (with a high degree of certainty) the potential liabilities or costs arising from its sponsorship. This was important, as these liabilities or costs could, in some circumstances, far exceed the financial capacities of Nauru (as well as those of many other developing States). Unlike terrestrial mining, in which a State generally only risks losing that which it already has

(for example, its natural environment), if a developing State can be held liable for activities in the Area, the State may potentially face losing more than it actually has.

2. Discussions on this issue were held with the International Seabed Authority, and it was suggested that a sponsoring State might be able to fulfil its sponsorship obligations and avoid liability if it entered into a contractual arrangement with a contractor under which:

(a) The State was given the powers to inspect and verify the contractor's programme of work and carry out an environmental auditing programme;

(b) The contractor undertook to comply with all terms and requirements of the Authority regulations and the exploration contract.

3. This solution would provide the sponsoring State with the confidence to participate in the Area, as it would be clear to the State what was required to avoid liability. At the same time, this arrangement would uphold the integrity of Part XI of the United Nations Convention on the Law of the Sea, as the sponsoring State would be in a position to compel the compliance of the contractor.

4. While the application process was being finalized, however, differing opinions arose from members of the Legal and Technical Commission regarding the interpretation of the provisions in the Convention and the 1994 Agreement relating to the implementation of Part XI of the Convention (General Assembly resolution 48/263) that pertain to the responsibility and liability of sponsoring States, and it became apparent that clarification would need to be sought regarding those provisions before moving forward. Without clarity on the issues of responsibility and liability, it is extremely difficult for a developing State to confidently sponsor activities in the Area, as no meaningful assessment can be made of the legal risks and potential liabilities, and it would be impossible to implement mitigating measures to avoid such liabilities with any certainty. As a result, the State would be left exposed to unforeseen liability under international law.

5. Ultimately, if sponsoring States are exposed to potential significant liabilities, Nauru, as well as other developing States, may be precluded from effectively participating in activities in the Area, which is one of the purposes and principles of Part XI of the Convention, in particular as provided for in article 148; article 150, subparagraph (c); and article 152, paragraph 2. As a result, Nauru considers it crucial that guidance be provided on the interpretation of the relevant sections of Part XI pertaining to responsibility and liability, so that developing States can assess whether it is within their capabilities to effectively mitigate such risks and in turn make an informed decision on whether or not to participate in activities in the Area. Clarification is sought with regard to the following:

(a) What sponsoring States' responsibilities and obligations are under Part XI of the Convention. In particular, clarification is sought on the meaning of the terms "ensure", "securing compliance" and "secure effective compliance".

(b) The meaning of the term "ensure" in the context of:

(i) Article 139, paragraph 1, of the Convention, which provides that "States parties shall have the responsibility to ensure that activities in the Area … shall be carried out in conformity with this Part";

(ii) Annex III, article 4, paragraph 4, which states that "The sponsoring State or States shall, pursuant to article 139, have the responsibility to ensure, within their legal systems, that a contractor so sponsored shall carry out activities in the Area in conformity with the terms of its contract and its obligations under this Convention";

(iii) Article 153, paragraph 4, which provides that "States parties shall assist the Authority by taking all measures necessary to ensure such compliance in accordance with article 139".

6. The term "ensure" is commonly defined as to "make certain" or "guarantee". In reality, however, no amount of measures taken by a sponsoring State could ever fully ensure or guarantee that a contractor carries out

its activities in conformity with the Convention. For example, enacting national legislation that penalizes the contractor for not complying with the Convention will work to deter the contractor from breaching the Convention; however, it will never ensure that the contractor always complies. The notion of "ensuring" or "guaranteeing" becomes even more untenable when one considers the large number of subcontractors and third parties that will likely be involved in a contractor's mining operations. Taking this into consideration, what is the meaning of the term "ensure" in the aforementioned clauses? Clarification is also sought with regard to the meaning of the term "securing compliance" as adopted in annex III, article 4, paragraph 4, and the meaning of the term "secure effective compliance" as adopted in article 139, paragraph 2. In particular, guidance is sought on the following four questions:

(a) Can the same meaning be ascribed to both terms, or does "secure effective compliance" denote a lower standard of responsibility than "securing compliance"? If they do share a similar interpretation, please provide guidance on what these terms essentially mean for a developing State attempting to fulfil its responsibility under Part XI. Again, in reality no amount of measures taken by a sponsoring State could ever fully "secure compliance" of a contractor when the contractor is a separate entity from the State;

(b) How do these two terms operate in relation to the term "ensure", as referenced in paragraph 5 above? Can all three terms be used interchangeably, or does "ensure" denote a higher standard of responsibility?;

(c) If it is determined that "secure effective compliance" does denote a lower standard than "ensure", what is this standard of responsibility?;

(d) Which standard does the sponsoring State ultimately have to meet to fulfil its responsibilities under Part XI and avoid liability?

7. How can a sponsoring State comply with its responsibility under Part XI to secure the effective compliance of the contractor? In particular, what measures is the sponsoring State required to take? Clarification is sought on the meaning of and relationship between the following terms:

(a) "All necessary and appropriate measures", in the context of article 139, paragraph 2;

(b) "All measures necessary", in the context of article 153, paragraph 4;

(c) "measures which are … reasonably appropriate", in the context of annex III, article 4, paragraph 4.

8. These three clauses essentially provide that the sponsoring State can be relieved of liability if it takes certain measures to secure the contractor's effective compliance; however, while referring to the same requirement, each clause adopts different wording to describe the types of measures the State is required to take. Clarification is sought on whether those three terms have the same or different meanings. For example, the term "measures which are … reasonably appropriate" appears to be less onerous and suggests fewer measures than "all measures necessary". If it is determined that those terms do have different meanings, which term takes precedence? That is, in order for the sponsoring State to fulfil its responsibility under Part XI and secure the contractor's effective compliance, must the sponsoring State take "all necessary and appropriate measures", "all measures necessary" or "measures which are … reasonably appropriate"?

9. Regarding the clauses referred to in paragraph 7 above, it is unclear who determines what is appropriate and/or necessary. Clarification is sought on whether it is the sponsoring State itself that determines what is appropriate or necessary, or if this is to be determined objectively by a governing body such as the Authority or the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea. It is also noted that:

(a) Annex III, article 4, paragraph 4, states that a sponsoring State shall not be liable if it has adopted laws and regulations and taken administrative measures which are "within the framework of its legal system, reasonably appropriate for securing compliance by persons under its jurisdiction". The nature of this wording suggests that the test contains a subjective element and that it takes into account the individual characteristics of each State, implying that the measures required would differ from State to State;

(b) On the other hand, article 153 provides that States parties shall assist the Authority by taking all measures necessary to ensure compliance with the relevant provisions of Part XI. This suggests there is less scope for flexibility. Moreover, provisions appearing in other parts of the Convention suggest that States must meet an objective international standard when adopting national legislation. For example, in the context of adopting national legislation to prevent, reduce and control pollution of the marine environment, States must adopt rules and measures which are "no less effective than international rules, standards and recommended practices and procedures" (see article 208, paragraph 3; article 209, paragraph 2; and article 210, paragraph 6). While those three articles appear in Part XII of the Convention, they provide a relevant example of how this issue has been dealt with in other parts of the Convention. Questions then arise as follows:

(i) If it is decided that it is up to the State to determine by its own standards what appropriate and necessary measures are, is the State nevertheless required to observe certain minimum standards and obligations? If so, what are these minimum standards and obligations?;

(ii) If it is the case that a governing body is to determine what appropriate and necessary measures are, clarification is sought on what will constitute "all necessary and appropriate measures";

(iii) For example, what factors will the governing body consider when determining whether appropriate measures have been taken, and what tests potentially need to be satisfied?;

(iv) Furthermore, given that a developing State may not be in a position to monitor seafloor mining activities or enforce legislation governing such activities as effectively as a developed State, does the standard of measures required for developing States differ from that required for developed States? If the standard does differ, please advise how it differs;

(v) Again, reference is made to article 148; article 150, subparagraph (c); and article 152, paragraph 2, which stipulate that the effective participation of developing States in activities in the Area should be promoted. It has been demonstrated that developing States are unlikely to sponsor activities in the Area if they face potential significant liabilities that cannot be effectively mitigated with a high degree of certainty. Given that this is an issue which is potentially threatening to the participation of developing States in activities in the Area, how do article 148; article 150, subparagraph (c); and article 152, paragraph 2, operate in the context of determining the appropriate measures for developing States to take to fulfil their responsibilities? That is, can those provisions pertaining to sponsoring State responsibility and liability be interpreted in such a way as to promote the effective participation of developing States?

10. Is the Seabed Disputes Chamber in a position to provide guidance on what specific measures developing States such as Nauru and Tonga must take to fulfil their responsibilities under article 139 and annex III, article 4, and to avoid liability? If so, please advise on such issues as:

(a) Whether the measures should be compliance-based (for example, active monitoring and auditing by the State), enforcement-based (for example, enacting legislation prescribing standards to be observed and penalties for breaching such standards) or a mixture of both;

(b) How frequently such measures should be carried out;

(c) The standard that must be met in carrying out such measures.

11. What is the meaning of the word "caused" under article 139, paragraph 2, which states that "damage caused by the failure of a State Party or international organization to carry out its responsibilities under this Part shall entail liability"? Clarification is also sought with regard to the following:

(a) The State's responsibility under Part XI is to secure the contractor's effective compliance with the Convention; however, it seems unlikely that a State's failure to carry out this responsibility would ever be the actual "cause" of damage inflicted by the contractor. Is "damage caused by" in this context meant to be interpreted as "damage resulting from"?;

(b) Also, please advise on the nature of the causal link contemplated by this clause. For example, does the State's failure to carry out its responsibility have to be a direct cause of the damage for the State to be liable, or does the mere fact that there has been a failure by the State to ensure compliance result in State liability if damage does occur. Alternatively, is the State liable only if it can be proven that damage resulted from the State's failure to ensure compliance? Also, does the degree of "causality" affect the degree of State liability? That is, is liability proportionate to the degree to which it can be said that the State's failure to secure compliance resulted in the damage?

12. Clarification is sought regarding the extent of sponsoring State liability under Part XI of the Convention. In particular, is there a limit to the extent of liability that a developing State such as Nauru or Tonga may face? For example, in a situation in which a developing State has failed to fulfil its responsibilities under Part XI and little or no recourse can be had against the contractor and its insurer, is it possible that a developing State may be liable to pay full reparation for actual damages caused by said contractor? Will the scale of liability take into account the developing State's financial capacity?

13. Under Part XI, could the sponsoring State still be exposed to liability even if it has satisfactorily fulfilled its responsibilities to secure the contractor's effective compliance? That is, in a situation in which a sponsoring State has fulfilled its obligations under Part XI, damage has been caused by a wrongful act of the contractor in the conduct of its operations and the contractor does not have sufficient assets to cover the cost of the damages and the damages are not covered in full by its insurance, does the sponsoring State remain relieved of liability, or is it possible that the sponsoring State may be required to cover part or all of the unpaid costs? Who ultimately bears the costs in this situation?

14. Clarification is sought with regard to whether the sponsoring State is responsible and potentially liable under Part XI for all activities associated with the contractor's mining operations in international waters (for example, mining, processing and transporting) or just those activities that occur on the seafloor. On the one hand, article 135 states that "Neither this Part nor any rights granted or exercised pursuant thereto shall affect the legal status of the waters superjacent to the Area or that of the airspace above those waters"; on the other hand, the definition of "exploitation" in the Regulations on Prospecting and Exploration for Polymetallic Nodules includes the construction and operation of processing and transporting systems, which would obviously extend well beyond the seafloor.

15. If the operation of Part XI does extend beyond the seafloor, and if the sponsoring State continues to remain responsible for ensuring the compliance of the contractor's activities that reach beyond the seafloor, how does sponsoring State responsibility and liability interact with flag State responsibility and liability, considering that the mining operation will likely involve the use of vessels registered in different flag States and potentially be under the management and control of nationals from other States? That is, will responsibility lie with the sponsoring State, the flag State or the State whose nationals control the vessel, or will there be joint liability?

16. Annex III, article 4, paragraph 4, states that "A sponsoring State shall not, however, be liable for damage caused by any failure of a contractor sponsored by it to comply with its obligations if that State party has adopted laws and regulations and taken administrative measures which are, within the framework of its legal system, reasonably appropriate for securing compliance by persons under its jurisdiction". This raises the following questions:

(a) Could Part XI be satisfied by the sponsoring State entering into a contractual agreement with the contractor on terms similar to those appearing in the draft sponsorship agreement summarized in the annex to the present document?;

(b) If it is not possible to satisfy this clause by entering into such a contractual arrangement, what laws and regulations and administrative measures must a developing State such as Nauru or Tonga take to fulfil its obligations and avoid liability? For example, is the State required to enact legislation specifically dealing with exploration and exploitation of polymetallic nodules in international waters (in effect, enacting legislation that reflects the regulations developed by the Authority), or can the State satisfy this

clause through more general national legislation that may already be in place, such as its mining law and environmental law?

17. As has been stressed throughout the present proposal, the sponsorship agreement (like all other measures) will not absolutely guarantee that the contractor will comply with Part XI of the Convention. It therefore needs to be determined whether the sponsorship agreement would be sufficient to demonstrate that the State has taken all appropriate and necessary measures to secure the contractor's effective compliance. As demonstrated in the present proposal, this raises its own set of questions, none more pressing than whether the standard of measures required for a developing State differs from that required for a developed State.

18. Regarding this issue, while the sponsorship agreement is effective in so far as it provides the State with numerous rights and powers to monitor, audit and regulate the activities of the contractor, in reality different States will have vastly different abilities to carry out such powers and regulation. That is, while efforts will be made under the sponsorship agreement to assist the developing State in performing its responsibilities (for example, financial and technical assistance will be provided to the State, and, should the State lack the capacity to effectively monitor the activities, the contractor will engage suitably qualified and independent safety and environmental officers to monitor on the State's behalf), it is unfortunately not possible for developing States to perform their responsibilities to the same standard or on the same scale as developed States. This is particularly the case when dealing with the regulation of deep-sea mining. For example, the deep-sea environment is a highly specialized field, and it is unlikely that developing States (particularly landlocked States) will have the skills, training and capacity to, for example, verify whether the mining activities are likely to cause serious pollution incidents or harm to the environment.

19. Additionally, regarding preventive measures, the sponsorship agreement stipulates that the State must be satisfied that certain conditions have been met prior to approving the commencement of the activities. While providing the State with a powerful tool to assist in promoting compliance, this effectively places an onus on the State to determine whether certain conditions have been met, which raises the following question: is the developing State able to make its own judgement based on its capacities to determine whether the conditions have been met, or is there a minimum standard of diligence required by all States?

Annex [omitted]
Draft sponsorship agreement as a means of satisfying State obligations under Part XI of the United Nations Convention on the Law of the Sea

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ISBA/16/C/7 Summary Report of the Chairman of the Legal and Technical Commission on the work of the Commission during the sixteenth session

Date: 28 April 2010

1. The Legal and Technical Commission commenced its work on 19 April, one week in advance of the meetings of the Council and Assembly. Unfortunately, owing to the volcanic eruption in Iceland, the Commission was unable to achieve a quorum until 21 April 2010. The Commission therefore held unofficial meetings on 19 and 20 April 2010, chaired by Mr Sandor Mulsow Flores, during which the members present in Kingston were able to undertake a detailed preliminary review of the annual reports of contractors with the Authority.

2. The following 20 members of the Commission participated in the meetings during the sixteenth session: Frida M. Armas-Pfirter, David Billett, Eusebio Lopera Caballero, Miguel dos Santos Alberto Chissano, Laleta Davis-Mattis, Baïdy Diène, Elva Escobar, Kennedy Hamutenya, Asif Inam, Emmanuel Kalngui, Woong-Seo Kim, Denis

Gennadyevich Khramov, Walter de Sá Leitão, Sudhakar Maruthadu, Sandor Mulsow Flores, Nobuyuki Okamoto, Christian Reichert, Mahmoud Samy, Adam Tugio and Haiqi Zhang. The following five members informed the Secretary-General that they would be unable to attend the session: Jean-Marie Auzende, Said Hussein, Isikeli Uluinairai Mataitoga, Andrzej Przybycin and Elena Sciso.

3. The Commission considered the following matters during the sixteenth session:

(a) Evaluation of the annual reports of contractors submitted pursuant to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area ('the Regulations');

(b) Completion of the training programme by the Federal Institute for Geosciences and Natural Resources of Germany;

(c) Review of the Recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for polymetallic nodules in the Area issued under regulation 31 of the Regulations;

(d) Outcomes and recommendations of the project to establish a geological model for the Clarion-Clipperton Zone;

(e) Presentation of the Code for Environmental Management of Marine Mining of the International Marine Minerals Society; and

(f) Other matters.

4. At its meeting on 21 April 2010, the Commission elected Miguel dos Santos Alberto Chissano (Mozambique) as Chairman and Nobuyuki Okamoto (Japan) as Vice-Chairman.

I. EVALUATION OF THE ANNUAL REPORTS OF CONTRACTORS SUBMITTED PURSUANT TO THE REGULATIONS ON PROSPECTING AND EXPLORATION FOR POLYMETALLIC NODULES IN THE AREA

5. On 19, 20, 21, 22 and 23 April, the Commission reviewed and evaluated, in closed meetings, the annual reports submitted by contractors pursuant to the Regulations. For this purpose and following its usual practice, the Commission divided itself into three working groups on legal, environmental and technological aspects. The working groups carried out a preliminary review of the annual reports and prepared a draft evaluation for consideration by the Commission. To facilitate its work, the Commission was provided with a preliminary analysis of the annual reports prepared by the secretariat (ISBA/16/LTC/CRP.5). The report and recommendations of the Commission concerning the annual reports of the contractors are contained in document ISBA/16/LTC/6.

6. In reviewing the annual reports, the Commission made several comments of a general nature. In particular, the Commission noted that contractors had only partially followed the Recommendations for guidance on the reporting of actual and direct exploration expenditure issued by the Commission in 2009 (ISBA/15/LTC/7). The Commission also noted that there were significant variations in reported financial expenditure among contractors in respect of a similar item, e.g. the cost per day of at-sea exploration. Moreover, the Commission expressed its concern that some reported expenditures could not be classified as 'actual and direct exploration expenditure' as defined in the Regulations. The Commission recommended that the contractors be requested to provide with their next annual report a revised historical breakdown of reported expenditure in accordance with the 2009 Recommendations. The Commission also requested the secretariat to prepare for the next session a detailed analysis of the reported expenditure by contractors against the recommended headings of expenditure set out in the 2009 Recommendations, in order to enable the Commission to provide further guidance to the incoming Legal and Technical Commission on the treatment of such expenditure.

7. The Commission observed that the environmental and exploration work of the contractors continues to progress at a slow pace. The Commission also expressed its concern that there was still a lack of raw data being

provided by the contractors in spite of numerous requests from both the Commission and the Secretary-General. In view of the completion next year, for most of the contractors, of the second 5-year period of the 15-year contract for exploration, the Commission requested the secretariat to prepare for its next session a detailed analysis of the exploration and environmental work carried out by the contractors to date.

II. COMPLETION OF THE TRAINING PROGRAMME BY THE FEDERAL INSTITUTE FOR GEOSCIENCES AND NATURAL RESOURCES OF GERMANY

8. The Commission received a report from the Federal Institute for Geosciences and Natural Resources (BGR) of Germany with respect to the completion of its training programme under Schedule 3 of its contract for exploration (ISBA/16/LTC/5). The Commission took note of the report and expressed its satisfaction with the training programme, which completes the training obligations of BGR under the contract.

III. REVIEW OF THE RECOMMENDATIONS FOR THE GUIDANCE OF CONTRACTORS FOR THE ASSESSMENT OF THE POSSIBLE ENVIRONMENTAL IMPACTS ARISING FROM EXPLORATION FOR POLYMETALLIC NODULES IN THE AREA ISSUED UNDER REGULATION 31 OF THE REGULATIONS

9. In 2008, the Commission had decided that it was necessary, in light of scientific progress, to review the Recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for polymetallic nodules in the Area issued in 2001 (ISBA/7/LTC/Rev.1**). In 2009, the Commission had reviewed a tabular comparison of the 2001 recommendations and the 2001 and 2004 environmental workshops. The Commission agreed to include a standard sampling protocol and a storage protocol for archiving data in the recommendations in order to enable a comparison of the environmental data collected by the contractors. However, the Commission did not have enough time to complete the revision in 2009 and therefore tasked a subgroup, with the assistance of the secretariat, to continue the work intersessionally.

10. In 2010, the Commission resumed its revision of the environmental recommendations on the basis of a draft prepared by the secretariat that included the comments and proposals of the subgroup (ISBA/16/LTC/CRP.1). To assist its work, the Commission was also provided with a preliminary summary and analysis of the environmental work carried out by contractors to date (ISBA/16/LTC/4), which compared the environmental work by the contractors as reported in 2009 with the environmental recommendations that the Commission had issued in 2001.

11. After discussion of the draft document, the Commission adopted, on 27 April 2010, the Recommendations as contained in document ISBA/16/LTC/7, on the understanding that the annexes to that document, which the Commission did not have sufficient time to consider fully, would remain provisional until the Commission was able to examine them in further detail at the next meeting in 2011.

IV. OUTCOMES AND RECOMMENDATIONS OF THE PROJECT TO ESTABLISH A GEOLOGICAL MODEL FOR POLYMETALLIC NODULE DEPOSITS IN THE CLARION-CLIPPERTON ZONE

12. Under this item, the Commission was informed that the project to establish a geological model for polymetallic nodule deposits in the Clarion-Clipperton Zone had been concluded with a workshop held from 14 to 17 December 2009 in Kingston. Experts, some members of the Commission, representatives of some contractors and some member States attended that workshop. The Commission received a presentation of the outcomes of the project, consisting of the Geological Model and the Prospector's Guide, and of the recommendations adopted during the workshop in December 2009. The Commission was also provided with a summary report and recommendations of the workshop in document ISBA/16/LTC/3, and a more detailed analysis of the Prospector's Guide and Geological Model in document ISBA/16/LTC/CRP.3.

13. The Commission took note of the reports and welcomed this major achievement, which would not have been possible without a great degree of cooperation from contractors. The Commission also noted that the Geological Model for the Clarion-Clipperton Zone would be updated as more data come to hand. The Commission welcomed the development of a similar project for the Central Indian Ocean Basin, which is expected to improve the resource assessment of polymetallic nodule deposits in the Area and guide future prospectors.

14. The Commission also received a presentation on the status on the Authority's Central Data Repository on marine mineral resources. The Commission took note of the presentation and expressed its satisfaction with the development of the database, which facilitates access in a standardized format to data and information on mineral resources. However, some members of the Commission also expressed their concerns in relation to the erroneous and unnecessary indication of political boundaries in one of the datasets used as a source map for the Authority's database, and requested the secretariat to make the necessary corrections. The secretariat later informed the Commission that the necessary corrections had been made.

V. PRESENTATION OF THE CODE FOR ENVIRONMENTAL MANAGEMENT OF MARINE MINING OF THE INTERNATIONAL MARINE MINERALS SOCIETY

15. On 26 April 2010, the Commission received a presentation by Dr. P. A. Verlaan on the revised draft update of the International Marine Mineral Society's (IMMS) Code for Environmental Management of Marine Mining, a brief overview of its concept and structure, and the background of the IMMS. The presentation is summarized in document ISBA/16/LTC/2.

16. The presentation pointed out that the Authority and the IMMS benefit from an unusual opportunity to put in place a framework for the environmentally and commercially responsible development of an emerging industry, which requires regulatory predictability and minimization of risk in environmental matters. This framework can be built into the full cycle of an industrial activity: from prospecting and exploitation to decommissioning and rehabilitation.

17. The Commission thanked Dr. Verlaan for her presentation. An extensive and rich discussion followed. The topics addressed includes: liability; proprietary versus non-proprietary environmental data; feasibility of rehabilitation, especially where hard substrate has been removed; the costing of rehabilitation specifically, and of environmental compliance generally; the potential inhibitory effect of these costs on investment in marine mining; compensation mechanisms; joint funding of environmental compliance activities, decommissioning and environmental disaster costs, such as various funds related to ship-source and oil pollution set up under the auspices of the International Maritime Organization; the existence and source of external auditing standards (including performance reviews), standards per se, and specialized accredited auditors, as well as the relevance of external auditing of contractors; mechanisms and funding for stakeholder consultations; definition of risk; the utility of non-binding instrument such as the Code to raise consciousness and set baselines and criteria until States are ready to adopt regulations; research on rehabilitation and its cost during test mining; and collaboration on environmental research between industry and academia.

VI. OTHER MATTERS

A. Work programme of the Authority

18. With respect to the proposed work programme, the Commission took note of the future projects of the Authority and supported them. The Commission also recalled the importance of the ongoing elaboration by the Authority, pursuant to Article 145 of the Convention, of the rules, regulations and procedures to ensure the effective protection of the marine environment for, inter alia, the protection and conservation of the natural resources of the Area, and the prevention of damage to the flora and fauna of the marine environment from harmful effects that may arise from activities in the Area. The Commission took note that the workshop to review

further the proposal for the establishment of a network of areas of particular environmental interest in the Clarion-Clipperton Fracture Zone would be held later in 2010.

19. The Commission also took note of the importance of involving its members in the expert meeting on the implementation of article 82, paragraph 4 of the Convention, as proposed in the Report of the Secretary-General.

B. Proposal to seek an advisory opinion from the Seabed Disputes Chamber

20. The Commission also took note of the proposal before the Council to seek an advisory opinion from the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea on matters regarding sponsoring State responsibility and liability (ISBA/16/C/6).

21. The Commission noted that in paragraph 4 of this document, submitted by the delegation of Nauru, it is stated that while the application process was being finalized, "differing opinions arose from members of the Legal and Technical Commission regarding the interpretation of the provisions in the Convention and the 1994 Agreement relating to the implementation of Part XI of the Convention (General Assembly resolution 48/263) that pertain to the responsibility and liability of sponsoring States, and that it became apparent that clarification would need to be sought regarding those provisions before moving forward".

22. The Commission wishes to state that these "differing opinions" that are referred to as being of the Commission's members are not stated in the Commission's reports or in any other official document. In addition, it is well stated that the applicants were the ones requesting the consideration of their applications to be postponed due to the current global economic circumstances and other concerns.

23. Effectively, the Commission had received in 2008 two applications for approval of a plan of work for exploration in reserved areas; one from Nauru Ocean Resources Inc. (sponsored by Nauru) and another from Tonga Offshore Mining Limited (sponsored by Tonga). As the Commission had been unable to complete consideration of the applications during the fourteenth session, the matter had been placed on the agenda for the fifteenth session. At that time, the representatives of Nauru and Tonga, the sponsoring States of the applicants, expressed their gratitude to the Commission for its work in relation to the consideration of the applications and emphasized the importance of the applications to their Governments (ISBA/14/C/8).

24. On 5 May 2009, the Secretariat was informed by Nauru Ocean Resources Inc. and Tonga Offshore Mining Ltd. (the applicant companies) that, in the light of current global economic circumstances and other concerns, they had decided to request that consideration of their applications for approval of plans of work for exploration for polymetallic nodules be postponed (ISBA/15/LTC/6). Consequently, the Commission took due note of the request and decided to defer further consideration of the item until further notice (ISBA/15/LTC/C/5).

C. Size and functioning of the Legal and Technical Commission

25. With respect to the size and functioning of the Legal and Technical Commission, the Commission wished to express that, in the light of the current number of candidates standing for election at the twelfth session, it had been asked by Council to comment on the efficiency of its functioning with its present membership of 25 experts. The Commission agreed that it was able to function efficiently and effectively with 25 experts. The Commission also agreed that there was a need to preserve as wide a range of disciplinary expertise as possible. The Commission specifically noted the need for specialists in certain key disciplines, including marine biology, marine geology, mining engineering, mining economics, and in legal matters.

26. The Commission recalled that the Convention does not limit the size of the Commission, but on the contrary enables its expansion.

27. On 28 April 2010, the Commission adjourned its meeting.

ISBA/16/C/9 Decision of the Council of the International Seabed Authority concerning the Staff Regulations of the Authority

Date: 3 May 2010
154th meeting [ISBA/16/C/L.2]

The Council of the International Seabed Authority,

1. *Decides* to adopt and apply provisionally, pending approval by the Assembly, the revisions to the staff regulations of the Authority as contained in the annex to the present document;

2. *Recommends* that the Assembly approve the revisions to the Staff Regulations of the Authority.

Annex [omitted]

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ISBA/16/C/10 Decision of the Council of the International Seabed Authority relating to the budget of the Authority for the financial period 2011 to 2012

Date: 3 May 2010
154th meeting [ISBA/16/C/L.3]

The Council of the International Seabed Authority,

Taking into account the recommendation of the Finance Committee,

1. *Recommends* that the Assembly of the International Seabed Authority adopt the budget of the Authority for the financial period 2011-2012 in the amount of $13,014,700, as proposed by the Secretary-General;

2. *Also recommends* that the Assembly adopt the following draft resolution.

The *Assembly of the International Seabed Authority*,

1. *Adopts* the budget of the Authority for the financial period 2011-2012 in the amount of $13,014,700;

2. *Authorizes* the Secretary-General to establish the scale of assessments for 2011 and 2012 based on the scale used for the regular budget of the United Nations for 2010, taking into account that the maximum assessment rate will be 22 per cent and the minimum rate 0.01 per cent and that the rate of 16.587 per cent shall be applied in assessing Japan's contribution to the budget of the Authority for 2011 and 2012;

3. *Also authorizes* the Secretary-General, for 2011 and 2012, to transfer between appropriation sections up to 20 per cent of the amount in each section;

4. *Urges* the members of the Authority to pay their assessed contributions to the budget on time and in full;

5. *Decides* to increase the level of the Working Capital Fund to $560,000 as set out in paragraph 6 of the report of the Finance Committee (ISBA/16/A/5-ISBA/16/C/8) on the understanding that such additional advances to the Working Capital Fund as may be necessary will be spread over the next two financial periods;

6. *Appeals* to all members of the Authority to contribute to the International Seabed Authority Endowment Fund for Marine Scientific Research and to the Voluntary Trust Fund.

ISBA/16/C/12 Decision of the Council relating to the regulations on prospecting and exploration for polymetallic sulphides in the Area

Date: 6 May 2010
161st meeting [ISBA/16/C/L.6]

The Council of the International Seabed Authority,

1. *Decides* to adopt the regulations on prospecting and exploration for polymetallic sulphides in the Area, as contained in document ISBA/16/C/L.5, dated 4 May 2010;

2. *Decides* further to apply the regulations provisionally, pending their approval by the Assembly of the Authority;

3. *Requests* the Legal and Technical Commission, in due course, to elaborate the appropriate criteria that might be used to prevent monopolization of activities in the Area with respect to polymetallic sulphides and to report to the Council for its consideration;

4. *Decides also* that the procedures set out in the Annex to the present decision shall have effect for a total period of one year following the date of its adoption.

Annex

1. Applicants and their sponsoring States and prospective applicants and their sponsoring States shall use their best efforts to ensure, before making an application pursuant to the Regulations on prospecting and exploration for polymetallic sulphides in the Area ("the Regulations"), that areas in respect of which applications are made do not overlap.

2. During the period of 180 days from the date of adoption of the present decision if, within 30 days of the date upon which an application for a plan of work for exploration for polymetallic sulphides is received by the Secretary-General in accordance with regulation 22 of the Regulations, one or more other applications for a plan of work for exploration for polymetallic sulphides are submitted that overlap with the same area or areas, the Secretary-General shall immediately notify all applicants concerned.

3. The applicants concerned and, as appropriate, their sponsoring States shall try to resolve any conflicts with respect to overlapping applications as soon as possible. The Secretary-General may use his or her good offices to mediate the overlapping applications and, if appropriate, propose a solution. Any such applicants may, within 90 days of the notification by the Secretary-General under paragraph 2, amend their applications so as to resolve the overlapping applications.

4. The parties to any overlapping applications shall keep the Secretary-General and the Council fully informed of efforts to resolve the overlapping applications and of the results thereof. As soon as any overlapping applications between applicants are resolved in accordance with the procedures set out in this Annex, the Legal and Technical Commission and the Council shall proceed to consider the applications concerned in the order in which they were received in accordance with regulations 23 and 24.

5. If the overlapping applications have not been resolved within 90 days of the Secretary-General's notification under paragraph 2 of this Annex to the applicants concerned, the Secretary-General shall provide a report to the Council and Legal and Technical Commission on the overlapping applications and his or her efforts to resolve those applications. The Commission shall, within 90 days following such report, submit an appropriate recommendation to the Council for its consideration on the overlapping applications, taking into account all the relevant factors including:

(a) the location and number of polymetallic sulphides sites that have been discovered in the areas subject to the overlapping applications and the date of each discovery;

(b) the workload, continuity and extent of survey activities with respect to polymetallic sulphides that have been conducted in the areas subject to the overlapping applications;

(c) the financial cost of such survey activities conducted in the areas subject to the overlapping applications, which is measured in constant United States dollars; and

(d) the date of receipt by the Secretary-General of each application.

ISBA/16/C/13 Decision of the Council of the International Seabed Authority requesting an advisory opinion pursuant to Article 191 of the United Nations Convention on the Law of the Sea

Date: 6 May 2010
161st meeting [ISBA/16/C/L.4]

The Council of the International Seabed Authority,

Considering the fact that developmental activities in the Area have already commenced,

Bearing in mind the exchange of views on legal questions arising within the scope of activities of the Council,

Decides, in accordance with Article 191 of the United Nations Convention on the Law of the Sea ("the Convention"), to request the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea, pursuant to Article 131 of the Rules of the Tribunal, to render an advisory opinion on the following questions:

1. What are the legal responsibilities and obligations of States Parties to the Convention with respect to the sponsorship of activities in the Area in accordance with the Convention, in particular Part XI, and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982?

2. What is the extent of liability of a State Party for any failure to comply with the provisions of the Convention, in particular Part XI, and the 1994 Agreement, by an entity whom it has sponsored under Article 153, paragraph 2 (b), of the Convention?

3. What are the necessary and appropriate measures that a sponsoring State must take in order to fulfil its responsibility under the Convention, in particular Article 139 and Annex III, and the 1994 Agreement?

ISBA/16/C/14* Statement of the President of the Council of the International Seabed Authority on the work of the Council during the sixteenth session

Date: 6 May 2010

1. The sixteenth session of the International Seabed Authority was held at Kingston, Jamaica, from 26 April to 7 May 2010.

I. ADOPTION OF AGENDA

2. At its 150th meeting, on 27 April 2010, the Council adopted its agenda for the sixteenth session, as contained in document ISBA/16/C/1.

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

3. At its 151st meeting, on 28 April 2010, the Council elected Syamal Kanti Das (India) as President of the Council for 2010. Subsequently, following consultations in the regional groups, the Council elected as Vice-Presidents the representatives of Côte d'Ivoire (Group of African States), Poland (Group of Eastern European States), Trinidad and Tobago (Group of Latin American and Caribbean States) and Italy (Group of Western European and other States).

III. REPORT OF THE SECRETARY-GENERAL CONCERNING THE CREDENTIALS OF MEMBERS OF THE COUNCIL

4. At the 157th meeting of the Council, on 4 May 2010, the Secretary-General informed the Council that, as of 4 May 2010, credentials had been received from 35 members of the Council. It was noted that, in accordance with the system agreed for the allocation of seats among the regional groups at the first election of the Council, France, on behalf of the Group of Western European and other States, would participate in the meetings of the Council in 2010 without the right to vote. In 2011, it would be the turn of the African Group of States to nominate a member of the Council to participate in the meetings of the Council without the right to vote.

IV. DRAFT REGULATIONS ON PROSPECTING AND EXPLORATION FOR POLYMETALLIC SULPHIDES IN THE AREA

5. The Council continued its consideration of outstanding issues with respect to the draft regulations on prospecting and exploration for polymetallic sulphides in the Area. The Council conducted its deliberations on the basis of a revised text of the draft regulations prepared by the secretariat and issued under symbol ISBA/15/C/WP.1/Rev.1. Revisions were agreed to draft regulation 23. The Council also adopted draft decision

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* Reissued for technical reasons.

ISBA/16/C/L.6, in which it set out, in the annex thereto, certain special procedures relating to overlapping claims, to have effect for a period of one year following the date of adoption of the regulations.

6. At its 161st meeting, on 6 May 2010, the Council adopted the Regulations on prospecting and exploration for polymetallic sulphides in the Area, as contained in document ISBA/16/C/L.5 of 4 May 2010. The Council noted that the secretariat would, in due course, issue a definitive text of the Regulations in all official languages, and that any linguistic changes of a draft-related nature should be submitted within a period of three months. The decision of the Council relating to the Regulations is contained in document ISBA/16/C/12.

V. PROPOSAL TO SEEK AN ADVISORY OPINION FROM THE SEABED DISPUTES CHAMBER OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA ON MATTERS RELATING TO THE RESPONSIBILITY AND LIABILITY OF SPONSORING STATES

7. At its 155th and 160th meetings, on 3 and 6 May 2010, respectively, the Council considered a proposal submitted by the delegation of Nauru to seek an advisory opinion from the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea on matters relating to responsibility and liability of sponsoring States (ISBA/16/C/6). The Council agreed that, since the developmental activities in the Area had already commenced, the issue of responsibility and liability of the sponsoring State was a matter of concern to all States and should therefore be delinked from the request of the delegation of Nauru.

8. At its 161st meeting, on 6 May 2010, the Council decided, in accordance with article 191 of the Convention, to request the Seabed Disputes Chamber to render an advisory opinion on the following questions:

(a) What are the legal responsibilities and obligations of States parties to the Convention with respect to the sponsorship of activities in the Area in accordance with the Convention, in particular part XI, and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982?

(b) What is the extent of liability of a State party for any failure to comply with the provisions of the Convention, in particular Part XI, and the 1994 Agreement, by an entity whom it has sponsored under article 153, paragraph 2 (b), of the Convention?

(c) What are the necessary and appropriate measures that a sponsoring State must take in order to fulfil its responsibility under the Convention, in particular under article 139 and annex III, and the 1994 Agreement?

9. The decision of the Council in this respect is contained in document ISBA/16/C/13. The Council requested the Secretary-General to transmit the request to the Seabed Disputes Chamber in due course.

VI. DRAFT REGULATIONS ON PROSPECTING AND EXPLORATION FOR COBALT-RICH FERROMANGANESE CRUSTS IN THE AREA

10. At its 159th meeting, on 5 May 2010, the Council took up consideration of the draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area. The Council noted that the draft regulations as proposed by the Legal and Technical Commission in 2009 were contained in the annex to document ISBA/16/C/WP.2. The Council further noted that the draft regulations proposed by the Commission would require further revision in order to bring them into alignment with the text of the Regulations on prospecting and exploration for polymetallic sulphides in the Area, as adopted by the Council during its present session. Some general comments were exchanged concerning the issues that the Council would need to discuss in more detail in relation to the draft regulations, including that of the appropriate size and configuration of areas for exploration. However, as insufficient time was available to undertake a detailed examination of the draft regulations, the Council agreed to take this matter up at its next session, in 2011. The secretariat was requested to provide a revised text of the draft regulations, taking into account the need to bring the draft regulations into alignment with

the Regulations on prospecting and exploration for polymetallic sulphides in the Area. An informal advance text, in English only, of such a draft was circulated on 6 May 2010 under symbol ISBA/16/C/CRP.1, dated 29 November 2009. The delegation of China also circulated, on 6 May 2010, an informal proposal on the draft regulations.

VII. SIZE AND COMPOSITION OF THE LEGAL AND TECHNICAL COMMISSION

11. At its 152nd and 153rd meetings, on 29 and 30 April 2010, respectively, the Council considered the question of the size and composition of the Legal and Technical Commission. The Council recalled that, at the thirteenth session in 2007, it had decided on a streamlined procedure for the nomination of candidates for election to the Commission (ISBA/13/C/6) and had also requested the Secretary-General to prepare a report, for consideration at the present session, on the functioning of the Commission, with a view to the determination by the Council, in 2010, of the number of members of the Commission to be elected in 2011.

12. After considering the note by the Secretary-General on this matter (ISBA/16/C/3), the Council expressed satisfaction with the work of the Legal and Technical Commission and the manner in which it had functioned over the past five years; took note of the view expressed by the Commission through its Chairman to the effect that the current size of the Commission had not prevented it from carrying out its work effectively and efficiently; and emphasized that the Commission needed to maintain a wide range of expertise to enable it to carry out its complex work.

13. With respect to the election of members of the Commission to be held in 2011, the Council agreed that the procedures set out in document ISBA/13/C/6 must be applied strictly. The Council also agreed that, for the 2011 election, the size of the Commission may be increased, having due regard to economy and efficiency, to up to 25 members, without prejudice to future elections.

VIII. PROPOSED AMENDMENTS TO THE STAFF REGULATIONS OF THE AUTHORITY

14. At its 154th meeting, on 3 May 2010, the Council considered proposed amendments to the Staff Regulations of the Authority as set out in document ISBA/16/C/4. In this regard, the Council took note of the need to reflect the changes in the system of administration of justice in the United Nations and to bring the Staff Regulations of the Authority, which had been adopted in 2001, into line with changes made in the Staff Regulations of the United Nations.

15. The Council took note of the agreement between the Secretary-General of the United Nations and the Secretary-General of the Authority extending the competence of the United Nations Appeals Tribunal to the Authority with respect to applications alleging non-compliance with the terms of appointment or contracts of employment of staff members of the Authority, as set out in annex I to document ISBA/16/C/4. The Council also decided to adopt and apply provisionally, pending approval by the Assembly, the revisions to the Staff Regulations of the Authority, as set out, in tabular form, in annex II to document ISBA/16/C/4. The decision of the Council in this respect is contained in document ISBA/16/C/9.

IX. BUDGET OF THE AUTHORITY AND SCALE OF ASSESSMENT FOR CONTRIBUTIONS OF MEMBERS OF THE AUTHORITY TO THE ADMINISTRATIVE BUDGET

16. At its 154th meeting, on 3 May 2010, the Council considered the budget of the Authority for the financial period 2011-2012. In considering the proposed budget, the Council took into account the recommendations of the Finance Committee as contained in document ISBA/16/A/5-ISBA/16/C/8. The Council decided to recommend to the Assembly for adoption the budget of the Authority for the financial period 2011-2012 in the amount of $13,014,700.

17. With respect to the proposed scale of assessment for contributions of members of the Authority to the administrative budget for the financial period 2011-2012, the Council noted that there had been no change in the

long-standing methodology for calculation of the scale of assessment, which is based on the scale used for the regular budget of the United Nations. The Council also noted that the Finance Committee had reiterated its encouragement to observer States to the Authority to consider making voluntary contributions to the budget of the Authority.

18. The decision of the Council in relation to the budget and related matters is contained in document ISBA/16/C/10.

X. REPORT OF THE LEGAL AND TECHNICAL COMMISSION

19. At its 152nd meeting, on 29 April 2010, the Council received the summary report of the Chairman of the Legal and Technical Commission on the work of the Commission during the sixteenth session (ISBA/16/C/7), as presented by Miguel dos Santos Alberto Chissano, Chairman of the Commission. The Council took note of the report, in particular of the Commission's request for a detailed analysis of the actual and direct exploration expenditure reported by contractors against the Recommendations for the guidance of contractors for the reporting of actual and direct exploration expenditures, issued by the Commission on 25 May 2009 (ISBA/15/LTC/7).

XI. NEXT MEETING OF THE COUNCIL

20. The next meeting of the Council will be held in Kingston from 25 April to 6 May 2011. It will be the turn of the Group of Eastern European States to nominate a candidate for the Presidency of the Council in 2011.

ISBA/16/C/WP.1 Review of outstanding issues with respect to the draft regulations on prospecting and exploration for polymetallic sulphides in the Area

Prepared by the Secretariat

Date: 19 March 2010

1. The purpose of the present paper is to provide members of the Council with a further update on the outstanding issues with respect to the draft regulations on prospecting and exploration for polymetallic sulphides in the Area (ISBA/15/C/WP.1/Rev.1) in preparation for continued discussion of the regulations during the sixteenth session of the Authority.

I. BACKGROUND AND PROGRESS TO DATE

2. Members of the Council will recall that during the fifteenth session, the Council continued its detailed consideration of the draft regulations, which it had commenced at the thirteenth session, in 2007.

3. The Council carried out its deliberations on the basis of a revised text of the draft regulations prepared by the Secretariat, taking into account the discussions and proposals in the Council during the thirteenth and fourteenth sessions (ISBA/15/C/WP.1 and Corr.1). The Council also had before it a working paper prepared by the Secretariat containing a review of the outstanding issues with respect to the draft regulations as well as a number of suggested possible revisions (ISBA/15/C/WP.2). As a result of its discussions, the Council reached agreement on revisions to the following draft regulations: regulations 21, 28 and 45 (3), and to the following provisions of annex 4 to the draft regulations: section 17.3; section 21.1 bis; section 25.2.

4. At the conclusion of the session, the Secretariat issued a revised text of the draft regulations (ISBA/15/C/WP.1/Rev.1), incorporating the revisions on which agreement had been reached.

II. OUTSTANDING ISSUES

5. The Council was not able to complete its consideration of proposed revisions to regulations 12 (5), and 23 dealing with, respectively, anti-monopoly and overlapping claims. It was agreed to continue discussion of these issues at the next session.

A. Anti-monopoly

1. Background

6. Members of the Council would also recall that in 2008 the Legal and Technical Commission had recommended the insertion of an anti-monopoly provision into the draft regulations on polymetallic sulphides and the draft regulations on cobalt-rich ferromanganese crusts. In his summary report to the Council, the Chairman of the Commission noted that the anti-monopoly provision contained in annex III to the 1982 United Nations Convention on the Law of the Sea ("the Convention") could not be applied effectively to either polymetallic sulphides or cobalt-rich crusts. In place of this provision, the Commission recommended that the regulations for both polymetallic sulphides and cobalt-rich crusts should prevent multiple applications by affiliated applicants in excess of the overall size limitations referred to in regulation 12 (i.e., 2,000 square kilometres in the case of cobalt-rich crusts and 10,000 square kilometres in the case of polymetallic sulphides). The suggested language, to be inserted as an additional paragraph in regulation 12, read as follows:

> "5. The total area covered by applications by affiliated applicants shall not exceed the limitations set out in paragraphs 2, 3 and 4 of this regulation. For the purposes of this regulation, an applicant is affiliated with another applicant if an applicant is directly or indirectly controlling, controlled by, or under common control with another applicant."

7. Although this issue was discussed extensively in the Council during the fifteenth session, no agreement could be reached. A number of informal drafting proposals were made, and following informal consultations coordinated by the delegation of India, were subsequently circulated in a conference room paper issued on 2 June 2009 (ISBA/15/C/CRP.3). The language contained in that document would have the effect of imposing a limit on the number and size of exploration contracts that could be held by affiliated entities, even if sponsored by different States, or under the sponsorship of a single State, even if held by different entities.

2. Analysis

8. There is nothing in the Convention or the 1994 Agreement that specifically prevents one member State (whether applying as a State party or a State enterprise) from making more than one application for a plan of work for exploration, whether for polymetallic nodules or for any other type of mineral resource. Likewise, there is nothing to prevent a natural or juridical person or a consortium from making more than one application. Unfortunately, however, the Convention is very unclear as to the maximum number of applications that may be made by any of the above entities or combinations of entities.

9. In the case of nodules, an anti-monopolization clause is found in the Convention, annex III, article 6 (3) (c). This provision has never been applied in practice, in part because of the decision to establish a pioneer investor regime under resolution II of the Third United Nations Conference on the Law of the Sea. Resolution II contains an implicit limitation on the number of plans of work for exploration that could be held, or could be sponsored by, individual States; that is to say a limit of one contract to each of the entities listed in paragraphs 1 (a) (i) to (iii). Even in this case, however, the practical effect of paragraph 1 (a) (ii) would have been to allow multiple

applications by natural or juridical persons and combinations of such entities from a number of Western European States (although this did not in fact happen).

10. The pioneer regime came to an end with the entry into force of the Convention and the subsequent adoption by the Authority of the Regulations on Prospecting and Exploration for Polymetallic Nodules. As far as anti-monopolization is concerned, the Authority's Regulations follow the formula set out in annex III, article 6 (3) (c). The effect is that the only current limitation on the number of applications for exploration for polymetallic nodules that may be made or sponsored by a single State party (in whatever combination) is that set out at annex III, article 6 (3) (c), of the Convention, as reflected in the Regulations.

11. In the case of polymetallic sulphides, the Legal and Technical Commission decided at an early stage of their discussions on the subject that the limitations set out in annex III, article 6, could not apply. This was for two reasons: (a) the provision itself is explicitly applicable only to polymetallic nodules; and (b) the provision makes no practical sense from a scientific perspective if applied to sulphides. Accordingly, the Commission tried to develop an anti-monopoly provision which is fair and reasonable to all potential applicants. The Commission's proposal is reflected in draft regulation 12 (5) as set out in paragraph 6 above and is designed to place limits on multiple applications by "affiliated applicants", defined as applicants "directly or indirectly, controlling, controlled by, or under common control with another applicant". An affiliated applicant is defined as one which is "directly controlling, controlled by or under common control with another applicant".

12. During the discussions on this proposal in the Council, the question was raised as to exactly what the term "affiliated applicant" means; for example, in accordance with the Convention, in addition to the Enterprise, the entities eligible to apply for exploration in the Area include States parties, State enterprises, natural or judicial persons or any group of the foregoing. Can this be construed to say that, for a State member of the Authority, the entities eligible to apply for exploration is limited to one? The question relates to the meaning of the phrase "under common control", i.e., if "under common control" does not mean "under the control of the same State member of the Authority", it seems that more entities from the same member State could apply for the exploration contract. The real issue is whether the objective of the anti-monopolization clause is to prevent monopolization by a single applicant (regardless of whether it is a State, a State enterprise or individual), or whether the objective is to prevent monopolization by a single State member of the Authority?

13. Taking these considerations into account, the Council may wish to revisit the proposals that were made during the fifteenth session.

B. Overlapping claims

14. The other outstanding issue with respect to the draft regulations is the question of how to deal with the situation where two or more applications are made close together in time in relation to the same area (referred to as overlapping claims).

15. A preliminary discussion on this matter took place during the fourteenth session. It was recalled that, in the case of polymetallic nodules, it had not been necessary to make any provision in the regulations for overlapping claims since all overlapping claims to potential mine sites had in fact been dealt with under resolution II or by arrangements reached during the work of the Preparatory Commission. Any new applications made after the entry into force of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area would be considered strictly on a first-come, first-served basis.

16. In the case of polymetallic sulphides and cobalt-rich crusts, however, the Legal and Technical Commission had recognized that there was a possibility that, initially, applications may be submitted for overlapping areas. The Commission therefore considered it necessary to include in the draft regulations a procedure for resolving such claims on a fair and equitable basis, although the basic principle of the draft regulations remained that applications

would be taken on a first-come, first-served basis.

17. Accordingly, the Commission proposed to apply a similar procedure to that found in resolution II. The Commission's proposal (draft regulation 24 (2) in the annex to document ISBA/13/C/WP.1) provided that, in the event of overlapping claims, the Secretary-General would notify the applicants before the matter was considered by the Council. Applicants would then have the opportunity to amend their claims so as to resolve any conflicts with respect to their applications. However, in the event of a conflict, the Council would then determine the area or areas to be allocated to each applicant on an equitable and non-discriminatory basis.

18. During the discussions at the fourteenth session, it became clear that most members of the Council did not agree with the proposal as formulated by the Legal and Technical Commission. In particular, it was generally considered inappropriate for the Council to be forced to make a choice between competing applications. A preference was expressed for a time period to be allowed during which competing applicants could determine between themselves the resolution of any overlaps, with the ultimate possibility of recourse to binding dispute settlement. Following an initial debate, an alternative proposal for a draft regulation 22 bis was prepared by the Secretariat (ISBA/14/C/CRP.2) and circulated on 2 June 2008. There was insufficient time to discuss that proposal in detail and several delegations asked for more time to consider the legal issues and precedents involved.

19. In the light of the discussions in 2008, the Secretariat prepared suggested language for a new regulation 23 for consideration by the Council at the fifteenth session (ISBA/15/C/WP.2, annex II). According to that formulation, an overlapping application submitted within a period of 60 days of an earlier application would have the effect of suspending further action on both (or all) applications until such time as any conflicts between applicants could be resolved. Since neither the Convention nor the 1994 Agreement provide a mechanism whereby either the Legal and Technical Commission or the Council could make a choice between competing applications,[1] it was suggested that no further action should be taken on any such application until all conflicts in respect of such applications could be resolved. Competing applicants would be provided with an opportunity to resolve conflicts by negotiations. During this period, any such applicant may submit an amended claim. In the event that it was not possible to resolve overlapping claims by negotiation, it would be necessary to refer the claims to an appropriate form of dispute settlement. In this regard, the working paper prepared by the Secretariat (ISBA/15/C/WP.2) provided delegations with an analysis of the various options available, including the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules and the Optional Rules for Arbitration of Disputes Relating to Natural Resources and/or the Environment of the Permanent Court of Arbitration, as well as a discussion of the application of article 188 of the Convention.

20. Discussions on this matter took place during the fifteenth session and a number of formal and informal proposals were made. Much of the discussion took place in an informal open-ended working group chaired by New Zealand. While there was general agreement on some of the elements of draft regulation 23, there was no consensus on the overall text of draft regulation 23, in particular the question of how any dispute over overlapping claims would ultimately be resolved. On the other hand, there appeared to be general agreement on the relevance of the first-come, first-served principle, the idea that there should be a limited time period during which a subsequent application for the same area may be considered overlapping (although there were different views on how long this period should be), and the need for applicants with competing claims to the same area to resolve overlapping claims in a fair and equitable manner.

21. Given the nature of the discussions in 2009, the Secretariat is not in a position to propose any new language for draft regulation 23. Thus, the version of regulation 23 that appears in document ISBA/15/C/WP.1/Rev.1, as a basis for continued discussion by the Council, reflects merely the latest version of the text discussed in the Council in 2009. It is recognized that there is no consensus on the text.

1. The power of the Council to approve a recommendation relating to a plan of work for exploration is strictly limited by the 1994 Agreement, section 3, paragraphs 11 and 12. There is no procedure for the approval of part of a plan of work or for the resolution of disputes by the Council.

III. RECOMMENDATIONS

22. The Council is invited to take note of the background to the draft regulations on prospecting and exploration for polymetallic sulphides in the Area and the summary of progress to date. With respect to the outstanding issues identified in the present paper, the Council is invited to address these issues during the sixteenth session with a view to adoption of the draft regulations.

23. In the event that the members of the Council are not able to agree on language for regulations 12 (5) and 23, one possibility that may be considered could be to remove these provisions from the draft regulations and incorporate their substance into a draft resolution to be proposed to the Assembly for adoption at the same time as the regulations. The advantage of that approach would be to recognize more explicitly that any problem of overlapping claims will arise only during a defined period following adoption of the regulations. Once such period has expired, the first-come, first-served principle would apply in the same way that it applies in the case of polymetallic nodules. The problem of potential monopolization of the Area could also be addressed in a more flexible manner in this way. It may be noted that this approach would also be similar to the approach taken in respect to the pioneer investor regime under resolution II.

ISBA/16/C/WP.2 Regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area

Note by the Secretariat

Date: 29 November 2009

Draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area proposed by the Legal and Technical Commission are attached to the present document (see annex).

Annex

Draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area

Preamble

In accordance with the United Nations Convention on the Law of the Sea ("the Convention"), the seabed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, on whose behalf the International Seabed Authority acts. The objective of this set of Regulations is to provide for prospecting and exploration for cobalt-rich ferromanganese crusts.

Part I
Introduction

Regulation 1
Use of terms and scope

1. Terms used in the Convention shall have the same meaning in these Regulations.

2. In accordance with 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"), the provisions of the Agreement and

Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 shall be interpreted and applied together as a single instrument. These Regulations and references in these Regulations to the Convention are to be interpreted and applied accordingly.

3. For the purposes of these Regulations:

(a) "cobalt crusts" means hydroxide/oxide deposits of cobalt-rich iron/manganese (ferromanganese) crust formed from direct precipitation of minerals from seawater onto hard substrates containing minor but significant concentrations of cobalt, titanium, nickel, platinum, molybdenum, tellurium, cerium, other metallic and rare earth elements;

(b) "exploitation" means the recovery for commercial purposes of cobalt crusts in the Area and the extraction of minerals therefrom, including the construction and operation of mining, processing and transportation systems, for the production and marketing of metals;

(c) "exploration" means searching for deposits of cobalt crusts in the Area with exclusive rights, the analysis of such deposits, the use and testing of recovery systems and equipment, processing facilities and transportation systems, and the carrying out of studies of the environmental, technical, economic, commercial and other appropriate factors that must be taken into account in exploitation;

(d) "marine environment" includes the physical, chemical, geological and biological components, conditions and factors which interact and determine the productivity, state, condition and quality of the marine ecosystem, the waters of the seas and oceans and the airspace above those waters, as well as the seabed and ocean floor and subsoil thereof;

(e) "prospecting" means the search for deposits of cobalt crusts in the Area, including estimation of the composition, sizes and distributions of deposits of cobalt crusts and their economic values, without any exclusive rights;

(f) "serious harm to the marine environment" means any effect from activities in the Area on the marine environment which represents a significant adverse change in the marine environment determined according to the rules, regulations and procedures adopted by the Authority on the basis of internationally recognized standards and practices.

4. These Regulations shall not in any way affect the freedom of scientific research, pursuant to article 87 of the Convention, or the right to conduct marine scientific research in the Area pursuant to articles 143 and 256 of the Convention. Nothing in these Regulations shall be construed in such a way as to restrict the exercise by States of the freedom of the high seas as reflected in article 87 of the Convention.

5. These Regulations may be supplemented by further rules, regulations and procedures, in particular on the protection and preservation of the marine environment. These Regulations shall be subject to the provisions of the Convention and the Agreement and other rules of international law not incompatible with the Convention.

Part II
Prospecting

Regulation 2
Prospecting

1. Prospecting shall be conducted in accordance with the Convention and these Regulations and may commence only after the prospector has been informed by the Secretary-General that its notification has been recorded pursuant to regulation 4, paragraph 2.

2. Prospectors and the Secretary-General shall apply a precautionary approach, as reflected in Principle 15 of the Rio Declaration on Environment and Development.[1] Prospecting shall not be undertaken if substantial evidence indicates the risk of serious harm to the marine environment.

3. Prospecting shall not be undertaken in an area covered by an approved plan of work for exploration for cobalt crusts or in a reserved area; nor may there be prospecting in an area which the Council has disapproved for exploitation because of the risk of serious harm to the marine environment.

4. Prospecting shall not confer on the prospector any rights with respect to resources. A prospector may, however, recover a reasonable quantity of minerals, being the quantity necessary for testing, and not for commercial use.

5. There shall be no time limit on prospecting except that prospecting in a particular area shall cease upon written notification to the prospector by the Secretary-General that a plan of work for exploration has been approved with regard to that area.

6. Prospecting may be conducted simultaneously by more than one prospector in the same area or areas.

Regulation 3
Notification of prospecting

1. A proposed prospector shall notify the Authority of its intention to engage in prospecting.

2. Each notification of prospecting shall be in the form prescribed in annex 1 to these Regulations, addressed to the Secretary-General, and shall conform to the requirements of these Regulations.

3. Each notification shall be submitted:

(a) in the case of a State, by the authority designated for that purpose by it;

(b) in the case of an entity, by its designated representative;

(c) in the case of the Enterprise, by its competent authority.

4. Each notification shall be in one of the languages of the Authority and shall contain:

(a) the name, nationality and address of the proposed prospector and its designated representative;

(b) the coordinates of the broad area or areas within which prospecting is to be conducted, in accordance with the most recent generally accepted international standard used by the Authority;

(c) a general description of the prospecting programme, including the proposed date of commencement and its approximate duration;

(d) a satisfactory written undertaking that the proposed prospector will:

(i) comply with the Convention and the relevant rules, regulations and procedures of the Authority concerning:

a. cooperation in the training programmes in connection with marine scientific research and transfer of technology referred to in articles 143 and 144 of the Convention; and

b. protection and preservation of the marine environment;

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1. *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992*, vol. I, *Resolutions Adopted by the Conference* (United Nations publication Sales No. E.93.I.8 and corrigendum), resolution 1, annex I.

(ii) accept verification by the Authority of compliance therewith; and

(iii) make available to the Authority, as far as practicable, such data as may be relevant to the protection and preservation of the marine environment.

Regulation 4
Consideration of notifications

1. The Secretary-General shall acknowledge in writing receipt of each notification submitted under regulation 3, specifying the date of receipt.

2. The Secretary-General shall review and act on the notification within 45 days of its receipt. If the notification conforms with the requirements of the Convention and these Regulations, the Secretary-General shall record the particulars of the notification in a register maintained for that purpose and shall inform the prospector in writing that the notification has been so recorded.

3. The Secretary-General shall, within 45 days of receipt of the notification, inform the proposed prospector in writing if the notification includes any part of an area included in an approved plan of work for exploration or exploitation of any category of resources, or any part of a reserved area, or any part of an area which has been disapproved by the Council for exploitation because of the risk of serious harm to the marine environment, or if the written undertaking is not satisfactory, and shall provide the proposed prospector with a written statement of reasons. In such cases, the proposed prospector may, within 90 days, submit an amended notification. The Secretary-General shall, within 45 days, review and act upon such amended notification.

4. A prospector shall inform the Secretary-General in writing of any change in the information contained in the notification.

5. The Secretary-General shall not release any particulars contained in the notification except with the written consent of the prospector. The Secretary-General shall, however, from time to time inform all members of the Authority of the identity of prospectors and the general areas in which prospecting is being conducted.

Regulation 5
Protection and preservation of the marine environment during prospecting

1. Each prospector shall take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from prospecting as far as reasonably possible, applying a precautionary approach and best environmental practices. In particular, each prospector shall minimize or eliminate:

(a) adverse environmental impacts from prospecting; and

(b) actual or potential conflicts or interference with existing or planned marine scientific research activities, in accordance with the relevant future guidelines in this regard.

2. Prospectors shall cooperate with the Authority in the establishment and implementation of programmes for monitoring and evaluating the potential impacts of the exploration for and exploitation of cobalt crusts on the marine environment.

3. A prospector shall immediately notify the Secretary-General in writing, using the most effective means, of any incident arising from prospecting which has caused, is causing or poses a threat of serious harm to the marine environment. Upon receipt of such notification the Secretary-General shall act in a manner consistent with regulation 35.

Regulation 6
Annual report

1. A prospector shall, within 90 days of the end of each calendar year, submit a report to the Authority on the status of prospecting. Such reports shall be submitted by the Secretary-General to the Legal and Technical Commission. Each such report shall contain:

(a) a general description of the status of prospecting and of the results obtained;

(b) information on compliance with the undertakings referred to in regulation 3, paragraph (4) (d); and

(c) information on adherence to the relevant guidelines in this regard.

2. If the prospector intends to claim expenditures for prospecting as part of the development costs incurred prior to the commencement of commercial production, the prospector shall submit an annual statement, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, of the actual and direct expenditures incurred by the prospector in carrying out prospecting.

Regulation 7
Confidentiality of data and information from prospecting contained in the annual report

1. The Secretary-General shall ensure the confidentiality of all data and information contained in the reports submitted under regulation 6 applying mutatis mutandis the provisions of regulations 38 and 39, provided that data and information relating to the protection and preservation of the marine environment, in particular those from environmental monitoring programmes, shall not be considered confidential. The prospector may request that such data not be disclosed for up to three years following the date of their submission.

2. The Secretary-General may, at any time, with the consent of the prospector concerned, release data and information relating to prospecting in an area in respect of which a notification has been submitted. If, after having made reasonable efforts for at least two years, the Secretary-General determines that the prospector no longer exists or cannot be located, the Secretary-General may release such data and information.

Regulation 8
Objects of an archaeological or historical nature

A prospector shall immediately notify the Secretary-General in writing of any finding in the Area of an object of actual or potential archaeological or historical nature and its location. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Part III
Applications for approval of plans of work for exploration in the form of contracts

Section 1
General provisions

Regulation 9
General

Subject to the provisions of the Convention, the following may apply to the Authority for approval of plans of work for exploration:

(a) the Enterprise, on its own behalf or in a joint arrangement;

(b) States Parties, state enterprises or natural or juridical persons which possess the nationality of States or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing which meets the requirements of these Regulations.

Section 2
Content of applications

Regulation 10
Form of applications

1. Each application for approval of a plan of work for exploration shall be in the form prescribed in annex 2 to these Regulations, shall be addressed to the Secretary-General, and shall conform to the requirements of these Regulations.

2. Each application shall be submitted:

(a) in the case of a State, by the authority designated for that purpose by it;

(b) in the case of an entity, by its designated representative or the authority designated for that purpose by the sponsoring State or States; and

(c) in the case of the Enterprise, by its competent authority.

3. Each application by a state enterprise or one of the entities referred to in subparagraph (b) of regulation 9 shall also contain:

(a) sufficient information to determine the nationality of the applicant or the identity of the State or States by which, or by whose nationals, the applicant is effectively controlled; and

(b) the principal place of business or domicile and, if applicable, place of registration of the applicant.

4. Each application submitted by a partnership or consortium of entities shall contain the required information in respect of each member of the partnership or consortium.

Regulation 11
Certificate of sponsorship

1. Each application by a state enterprise or one of the entities referred to in subparagraph (b) of regulation 9 shall be accompanied by a certificate of sponsorship issued by the State of which it is a national or by which or by whose nationals it is effectively controlled. If the applicant has more than one nationality, as in the case of a partnership or consortium of entities from more than one State, each State involved shall issue a certificate of sponsorship.

2. Where the applicant has the nationality of one State but is effectively controlled by another State or its nationals, each State involved shall issue a certificate of sponsorship.

3. Each certificate of sponsorship shall be duly signed on behalf of the State by which it is submitted, and shall contain:

(a) the name of the applicant;

(b) the name of the sponsoring State;

(c) a statement that the applicant is:

(i) a national of the sponsoring State; or

(ii) subject to the effective control of the sponsoring State or its nationals;

(d) a statement by the sponsoring State that it sponsors the applicant;

(e) the date of deposit by the sponsoring State of its instrument of ratification of, or accession or succession to, the Convention;

(f) a declaration that the sponsoring State assumes responsibility in accordance with article 139, article 153, paragraph 4, and annex III, article 4, paragraph 4, of the Convention.

4. States or entities in a joint arrangement with the Enterprise shall also comply with this regulation.

Regulation 12
Total area covered by the application

1. For the purposes of these Regulations, a "cobalt crust block" is one or more cells of a grid as provided by the Authority, which may be square or rectangular in shape, no greater than 20 square kilometres.

2. The area covered by each application for approval of a plan of work for exploration for cobalt crusts shall be comprised of not more than 100 cobalt crust blocks which shall be arranged by the applicant in clusters, as set out in paragraph 3 below.

3. Five contiguous cobalt crust blocks form a cluster of cobalt crust blocks. Two such blocks that touch at any point shall be considered to be contiguous. Clusters of cobalt crust blocks need not be contiguous but shall be proximate and located entirely within a geographical area measuring not more than 550 kilometres by 550 kilometres.

4. Notwithstanding the provisions in paragraph 2 above, where an applicant has elected to contribute a reserved area to carry out activities pursuant to article 9 of annex III to the Convention, in accordance with regulation 17, the total area covered by an application shall not exceed 200 cobalt crust blocks. Such blocks shall be arranged in two groups of equal estimated commercial value and each such group of cobalt crust blocks shall be arranged by the applicant in clusters, as set out in paragraph 3 above.

5. The total area covered by applications by affiliated applicants shall not exceed the limitations set out in paragraphs 2, 3 and 4 of this regulation. For purposes of this regulation, an applicant is affiliated with another applicant if an applicant is directly or indirectly, controlling, controlled by, or under common control with, another applicant.

Regulation 13
Financial and technical capabilities

1. Each application for approval of a plan of work for exploration shall contain specific and sufficient information to enable the Council to determine whether the applicant is financially and technically capable of carrying out the proposed plan of work for exploration and of fulfilling its financial obligations to the Authority.

2. An application for approval of a plan of work for exploration by the Enterprise shall include a statement by its competent authority certifying that the Enterprise has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration.

3. An application for approval of a plan of work for exploration by a State or a state enterprise shall include a statement by the State or the sponsoring State certifying that the applicant has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration.

4. An application for approval of a plan of work for exploration by an entity shall include copies of its audited financial statements, including balance sheets and profit-and-loss statements, for the most recent three years, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants; and

(a) if the applicant is a newly organized entity and a certified balance sheet is not available, a pro forma balance sheet certified by an appropriate official of the applicant;

(b) if the applicant is a subsidiary of another entity, copies of such financial statements of that entity and a statement from that entity, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, that the applicant will have the financial resources to carry out the plan of work for exploration;

(c) if the applicant is controlled by a State or a state enterprise, a statement from the State or state enterprise certifying that the applicant will have the financial resources to carry out the plan of work for exploration.

5. Where an applicant referred to in paragraph 4 intends to finance the proposed plan of work for exploration by borrowings, its application shall include the amount of such borrowings, the repayment period and the interest rate.

6. Each application shall include:

(a) a general description of the applicant's previous experience, knowledge, skills, technical qualifications and expertise relevant to the proposed plan of work for exploration;

(b) a general description of the equipment and methods expected to be used in carrying out the proposed plan of work for exploration and other relevant non-proprietary information about the characteristics of such technology;

(c) a general description of the applicant's financial and technical capability to respond to any incident or activity which causes serious harm to the marine environment.

7. Where the applicant is a partnership or consortium of entities in a joint arrangement, each member of the partnership or consortium shall provide the information required by this regulation.

Regulation 14
Previous contracts with the Authority

Where the applicant or, in the case of an application by a partnership or consortium of entities in a joint arrangement, any member of the partnership or consortium, has previously been awarded any contract with the Authority, the application shall include:

(a) the date of the previous contract or contracts;

(b) the dates, reference numbers and titles of each report submitted to the Authority in connection with the contract or contracts; and

(c) the date of termination of the contract or contracts, if applicable.

Regulation 15
Undertakings

Each applicant, including the Enterprise, shall, as part of its application for approval of a plan of work for exploration, provide a written undertaking to the Authority that it will:

(a) accept as enforceable and comply with the applicable obligations created by the provisions of the Convention and the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and the terms of its contracts with the Authority;

(b) accept control by the Authority of activities in the Area, as authorized by the Convention; and

(c) provide the Authority with a written assurance that its obligations under the contract will be fulfilled in good faith.

Regulation 16
Applicant's election of a reserved area contribution or equity interest in a joint venture arrangement

Each applicant shall, in the application, elect either to:

(a) contribute a reserved area to carry out activities pursuant to annex III, article 9, of the Convention, in accordance with regulation 17; or

(b) offer an equity interest in a joint venture arrangement in accordance with regulation 19.

Regulation 17
Data and information to be submitted before the designation of a reserved area

1. Where the applicant elects to contribute a reserved area to carry out activities pursuant to article 9 of annex III to the Convention, the area covered by the application shall be sufficiently large and of sufficient estimated commercial value to allow two mining operations and shall be configured by the applicant in accordance with regulation 12, paragraph 4.

2. Each such application shall contain sufficient data and information, as prescribed in section II of annex 2 to these Regulations, with respect to the area under application to enable the Council, on the recommendation of the Legal and Technical Commission, to designate a reserved area based on the estimated commercial value of each part. Such data and information shall consist of data available to the applicant with respect to both parts of the area under application, including the data used to determine their commercial value.

3. The Council, on the basis of the data and information submitted by the applicant pursuant to section II of annex 2 to these Regulations, if found satisfactory, and taking into account the recommendation of the Legal and Technical Commission, shall designate the part of the area under application which is to be a reserved area. The area so designated shall become a reserved area as soon as the plan of work for exploration for the non-reserved area is approved and the contract is signed. If the Council determines that additional information, consistent with these Regulations and annex 2, is needed to designate the reserved area, it shall refer the matter back to the Commission for further consideration, specifying the additional information required.

4. Once the plan of work for exploration is approved and a contract has been issued, the data and information transferred to the Authority by the applicant in respect of the reserved area may be disclosed by the Authority in accordance with article 14, paragraph 3, of annex III to the Convention.

Regulation 18
Applications for approval of plans of work with respect to a reserved area

1. Any State which is a developing State or any natural or juridical person sponsored by it and effectively controlled by it or by any other developing State, or any group of the foregoing, may notify the Authority that it wishes to submit a plan of work for exploration with respect to a reserved area. The Secretary-General shall forward such notification to the Enterprise, which shall inform the Secretary-General in writing within six months whether or not it intends to carry out activities in that area. If the Enterprise intends to carry out activities in that area, it shall, pursuant to paragraph 4, also inform in writing the contractor whose application for approval of a plan of work for exploration originally included that area.

2. An application for approval of a plan of work for exploration in respect of a reserved area may be submitted at any time after such an area becomes available following a decision by the Enterprise that it does not intend to carry out activities in that area or where the Enterprise has not, within six months of the notification by the Secretary-General, either taken a decision on whether it intends to carry out activities in that area or notified the Secretary-General in writing that it is engaged in discussions regarding a potential joint venture. In the latter instance, the Enterprise shall have one year from the date of such notification in which to decide whether to conduct activities in that area.

3. If the Enterprise or a developing State or one of the entities referred to in paragraph 1 does not submit an application for approval of a plan of work for exploration for activities in a reserved area within 15 years of the commencement by the Enterprise of its functions independent of the Secretariat of the Authority or within 15 years of the date on which that area is reserved for the Authority, whichever is the later, the contractor whose application for approval of a plan of work for exploration originally included that area shall be entitled to apply for a plan of work for exploration for that area provided it offers in good faith to include the Enterprise as a joint-venture partner.

4. A contractor has the right of first refusal to enter into a joint venture arrangement with the Enterprise for exploration of the area which was included in its application for approval of a plan of work for exploration and which was designated by the Council as a reserved area.

Regulation 19
Equity interest in a joint venture arrangement

1. Where the applicant elects to offer an equity interest in a joint venture arrangement, it shall submit data and information in accordance with regulation 20. The area to be allocated to the applicant shall be subject to the provisions of regulation 17.

2. The joint venture arrangement, which shall take effect at the time the applicant enters into a contract for exploitation, shall include the following:

(a) the Enterprise shall obtain a minimum of 20 per cent of the equity participation in the joint venture arrangement on the following basis:

(i) half of such equity participation shall be obtained without payment, directly or indirectly, to the applicant and shall be treated pari passu for all purposes with the equity participation of the applicant;

(ii) the remainder of such equity participation shall be treated pari passu for all purposes with the equity participation of the applicant except that the Enterprise shall not receive any profit distribution with respect to such participation until the applicant has recovered its total equity participation in the joint venture arrangement;

(b) notwithstanding subparagraph (a), the applicant shall nevertheless offer the Enterprise the opportunity to purchase a further 30 per cent of the equity participation in the joint venture arrangement, or such lesser percentage as the Enterprise may elect to purchase, on the basis of pari passu treatment with the applicant for all purposes; [2]

(c) except as specifically provided in the agreement between the applicant and the Enterprise, the Enterprise shall not by reason of its equity participation be otherwise obligated to provide funds or credits or issue guarantees or otherwise accept any financial liability whatsoever for or on behalf of the joint venture arrangement, nor shall the Enterprise be required to subscribe for additional equity participation so as to maintain its proportionate participation in the joint venture arrangement.

[2] The terms and conditions upon which such equity participation may be obtained would need to be further elaborated.

Regulation 20
Data and information to be submitted for approval of the plan of work for exploration

1. Each applicant shall submit, with a view to receiving approval of the plan of work for exploration in the form of a contract, the following information:

(a) a general description and a schedule of the proposed exploration programme, including the programme of activities for the immediate five-year period, such as studies to be undertaken in respect of the environmental, technical, economic and other appropriate factors that must be taken into account in exploration;

(b) a description of the programme for oceanographic and environmental baseline studies in accordance with these Regulations and any environmental rules, regulations and procedures established by the Authority that would enable an assessment of the potential environmental impact including, but not restricted to, the impact on biodiversity, of the proposed exploration activities, taking into account any recommendations issued by the Legal and Technical Commission;

(c) a preliminary assessment of the possible impact of the proposed exploration activities on the marine environment;

(d) a description of proposed measures for the prevention, reduction and control of pollution and other hazards, as well as possible impacts, to the marine environment;

(e) data necessary for the Council to make the determination it is required to make in accordance with regulation 13, paragraph 1; and

(f) a schedule of anticipated yearly expenditures in respect of the programme of activities for the immediate five-year period.

2. Where the applicant elects to contribute a reserved area, the data and information relating to such area shall be transferred by the applicant to the Authority after the Council has designated the reserved area in accordance with regulation 17, paragraph 3.

3. Where the applicant elects to offer an equity interest in a joint venture arrangement the data and information relating to such area shall be transferred by the applicant to the Authority at the time of the election.

Section 3
Fees

Regulation 21
Fee for applications

1. The fee for processing a plan of work for exploration for cobalt crusts shall consist of an initial fixed fee of 50,000 United States dollars or its equivalent in a freely convertible currency, payable by the applicant at the time of submitting an application, and an annual fee calculated as set out in paragraph 2.

2. The annual fee shall be calculated as follows:

(a) 25 United States dollars multiplied by the area factor from the date of the first anniversary of the contract;

(b) 50 United States dollars multiplied by the area factor from the date of the first relinquishment in accordance with regulation 27, paragraph 2; and

(c) 100 United States dollars multiplied by the area factor from the date of the second relinquishment in accordance with regulation 27, paragraph 3. [3]

3. The "Area Factor" means the number of square kilometres comprised in the exploration area at the date upon which the periodic payment in question becomes due.

4. The amount of the fee shall be reviewed every five years by the Council in order to ensure that it covers the administrative costs incurred by the Authority in processing the application.

Section 4
Processing of applications

Regulation 22
Receipt, acknowledgement and safe custody of applications

The Secretary-General shall:

(a) acknowledge in writing within 30 days receipt of every application for approval of a plan of work for exploration submitted under this Part, specifying the date of receipt;

(b) place the application together with the attachments and annexes thereto in safe custody and ensure the confidentiality of all confidential data and information contained in the application; and

(c) notify the members of the Authority of the receipt of such application and circulate to them information of a general nature which is not confidential regarding the application.

Regulation 23
Consideration by the Legal and Technical Commission

1. Upon receipt of an application for approval of a plan of work for exploration, the Secretary-General shall notify the members of the Legal and Technical Commission and place consideration of the application as an item on the agenda for the next meeting of the Commission.

2. The Commission shall examine applications in the order in which they are received.

3. The Commission shall determine if the applicant:

(a) has complied with the provisions of these Regulations;

(b) has given the undertakings and assurances specified in regulation 15;

(c) possesses the financial and technical capability to carry out the proposed plan of work for exploration and has provided details as to its ability to comply promptly with emergency orders; and

(d) has satisfactorily discharged its obligations in relation to any previous contract with the Authority.

4. The Commission shall, in accordance with the requirements set forth in these Regulations and its procedures, determine whether the proposed plan of work for exploration will:

(a) provide for effective protection of human health and safety;

(b) provide for effective protection and preservation of the marine environment including, but not restricted to, the impact on biodiversity;

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3. The 2006 workshop recommended that the fee per block retained should double again in the event of an extension of the contract for exploration beyond 15 years pursuant to regulation 28.

(c) ensure that installations are not established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity.

5. If the Commission makes the determinations specified in paragraph 3 and determines that the proposed plan of work for exploration meets the requirements of paragraph 4, the Commission shall recommend approval of the plan of work for exploration to the Council.

6. The Commission shall not recommend approval of the plan of work for exploration if part or all of the area covered by the proposed plan of work for exploration is included in:

(a) a plan of work for exploration approved by the Council for cobalt crusts; or

(b) a plan of work approved by the Council for exploration for or exploitation of other resources if the proposed plan of work for exploration for cobalt crusts might cause undue interference with activities under such approved plan of work for other resources; or

(c) an area disapproved for exploitation by the Council in cases where substantial evidence indicates the risk of serious harm to the marine environment.

7. Except in the case of applications by the Enterprise, on its own behalf or in a joint venture, and applications under regulation 18, the Commission shall not recommend approval of the plan of work for exploration if part or all of the area covered by the proposed plan of work for exploration is included in a reserved area or an area designated by the Council to be a reserved area.

8. If the Commission finds that an application does not comply with these Regulations, it shall notify the applicant in writing, through the Secretary-General, indicating the reasons. The applicant may, within 45 days of such notification, amend its application. If the Commission after further consideration is of the view that it should not recommend approval of the plan of work for exploration, it shall so inform the applicant and provide the applicant with a further opportunity to make representations within 30 days of such information. The Commission shall consider any such representations made by the applicant in preparing its report and recommendation to the Council.

9. In considering a proposed plan of work for exploration, the Commission shall have regard to the principles, policies and objectives relating to activities in the Area as provided for in part XI and annex III of the Convention and the Agreement.

10. The Commission shall consider applications expeditiously and shall submit its report and recommendations to the Council on the designation of the areas and on the plan of work for exploration at the first possible opportunity, taking into account the schedule of meetings of the Authority.

11. In discharging its duties, the Commission shall apply these Regulations and the rules, regulations and procedures of the Authority in a uniform and non-discriminatory manner.

Regulation 24
Consideration and approval of plans of work for exploration by the Council

The Council shall consider the reports and recommendations of the Commission relating to approval of plans of work for exploration in accordance with paragraphs 11 and 12 of section 3 of the annex to the Agreement.

Part IV
Contracts for exploration

Regulation 25
The contract

1. After a plan of work for exploration has been approved by the Council, it shall be prepared in the form of a contract between the Authority and the applicant as prescribed in annex 3 to these Regulations. Each contract shall incorporate the standard clauses set out in annex 4 in effect at the date of entry into force of the contract.

2. The contract shall be signed by the Secretary-General on behalf of the Authority and by the applicant. The Secretary-General shall notify all members of the Authority in writing of the conclusion of each contract.

Regulation 26
Rights of the contractor

1. The contractor shall have the exclusive right to explore an area covered by a plan of work for exploration in respect of cobalt crusts. The Authority shall ensure that no other entity operates in the same area for other resources in a manner that might interfere with the operations of the contractor.

2. A contractor who has an approved plan of work for exploration only shall have a preference and a priority among applicants submitting plans of work for exploitation of the same area and resources. Such preference or priority may be withdrawn by the Council if the contractor has failed to comply with the requirements of its approved plan of work for exploration within the time period specified in a written notice or notices from the Council to the contractor indicating which requirements have not been complied with by the contractor. The time period specified in any such notice shall not be unreasonable. The contractor shall be accorded a reasonable opportunity to be heard before the withdrawal of such preference or priority becomes final. The Council shall provide the reasons for its proposed withdrawal of preference or priority and shall consider any contractor's response. The decision of the Council shall take account of that response and shall be based on substantial evidence.

3. A withdrawal of preference or priority shall not become effective until the contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to part XI, section 5, of the Convention.

Regulation 27
Size of area and relinquishment

1. The contractor shall relinquish the area allocated to it in accordance with paragraphs 2, 3 and 4 of this regulation. Areas to be relinquished need not be contiguous and shall be defined by the contractor in the form of sub-blocks comprising one or more cells of a grid as provided by the Authority.

2. By the end of the fifth year from the date of the contract, the contractor shall have relinquished at least 50 per cent of the original area allocated to it;

3. By the end of the tenth year from the date of the contract, the contractor shall have relinquished at least 75 per cent of the original area allocated to it; or

4. At the end of the fifteenth year from the date of the contract, or when the contractor applies for exploitation rights, whichever is the earlier, the contractor shall nominate an area from the remaining area allocated to it to be retained for exploitation.

5. The contractor may at any time relinquish parts of the area allocated to it in advance of the schedule set out in paragraphs 2, 3 and 4.

6. Relinquished areas shall revert to the Area.

7. The Council may, at the request of the contractor, and on the recommendation of the Commission, in exceptional circumstances, defer the schedule of relinquishment. Such exceptional circumstances shall be determined by the Council and shall include, inter alia, consideration of prevailing economic circumstances or other unforeseen exceptional circumstances arising in connection with the operational activities of the contractor.

Regulation 28
Duration of contracts

1. A plan of work for exploration shall be approved for a period of 15 years. Upon expiration of a plan of work for exploration, the contractor shall apply for a plan of work for exploitation unless the contractor has already done so, has obtained an extension for the plan of work for exploration or decides to renounce its rights in the area covered by the plan of work for exploration.

2. Not later than six months before the expiration of a plan of work for exploration, a contractor may apply for extensions for the plan of work for exploration for periods of not more than five years each. Such extensions shall be approved by the Council, on the recommendation of the Commission, if the contractor has made efforts in good faith to comply with the requirements of the plan of work but for reasons beyond the contractor's control has been unable to complete the necessary preparatory work for proceeding to the exploitation stage or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

Regulation 29
Training

Pursuant to article 15 of annex III to the Convention, each contract shall include as a schedule a practical programme for the training of personnel of the Authority and developing States and drawn up by the contractor in cooperation with the Authority and the sponsoring State or States. Training programmes shall focus on training in the conduct of exploration, and shall provide for full participation by such personnel in all activities covered by the contract. Such training programmes may be revised and developed from time to time as necessary by mutual agreement.

Regulation 30
Periodic review of the implementation of the plan of work for exploration

1. The contractor and the Secretary-General shall jointly undertake a periodic review of the implementation of the plan of work for exploration at intervals of five years. The Secretary-General may request the contractor to submit such additional data and information as may be necessary for the purposes of the review.

2. In the light of the review, the contractor shall indicate its programme of activities for the following five-year period, making such adjustments to its previous programme of activities as are necessary.

3. The Secretary-General shall report on the review to the Commission and to the Council. The Secretary-General shall indicate in the report whether any observations transmitted to him by States Parties to the Convention concerning the manner in which the contractor has discharged its obligations under these Regulations relating to the protection and preservation of the marine environment were taken into account in the review.

Regulation 31
Termination of sponsorship

1. Each contractor shall have the required sponsorship throughout the period of the contract.

2. If a State terminates its sponsorship it shall promptly notify the Secretary-General in writing. The sponsoring State should also inform the Secretary-General of the reasons for terminating its sponsorship. Termination of sponsorship shall take effect six months after the date of receipt of the notification by the Secretary-General, unless the notification specifies a later date.

3. In the event of termination of sponsorship the contractor shall, within the period referred to in paragraph 2, obtain another sponsor. Such sponsor shall submit a certificate of sponsorship in accordance with regulation 11. Failure to obtain a sponsor within the required period shall result in the termination of the contract.

4. A sponsoring State shall not be discharged by reason of the termination of its sponsorship from any obligations accrued while it was a sponsoring State, nor shall such termination affect any legal rights and obligations created during such sponsorship.

5. The Secretary-General shall notify the members of the Authority of the termination or change of sponsorship.

Regulation 32
Responsibility and liability

Responsibility and liability of the contractor and of the Authority shall be in accordance with the Convention. The contractor shall continue to have responsibility for any damage arising out of wrongful acts in the conduct of its operations, in particular damage to the marine environment, after the completion of the exploration phase.

Part V
Protection and preservation of the marine environment

Regulation 33
Protection and preservation of the marine environment

1. The Authority shall, in accordance with the Convention and the Agreement, establish and keep under periodic review environmental rules, regulations and procedures to ensure effective protection for the marine environment from harmful effects which may arise from activities in the Area.

2. In order to ensure effective protection for the marine environment from harmful effects which may arise from activities in the Area, the Authority and sponsoring States shall apply a precautionary approach, as reflected in principle 15 of the Rio Declaration, and best environmental practices.

3. The Legal and Technical Commission shall make recommendations to the Council on the implementation of paragraphs 1 and 2 above.

4. The Commission shall develop and implement procedures for determining, on the basis of the best available scientific and technical information, including information provided pursuant to regulation 20, whether proposed exploration activities in the Area would have serious harmful effects on vulnerable marine ecosystems, in particular hydrothermal vents, and ensure that, if it is determined that certain proposed exploration activities would have serious harmful effects on vulnerable marine ecosystems, those activities are managed to prevent such effects or not authorized to proceed.

5. Pursuant to article 145 of the Convention and paragraph 2 of this regulation, each contractor shall take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from its activities in the Area as far as reasonably possible, applying a precautionary approach and best environmental practices.

6. Contractors, sponsoring States and other interested States or entities shall cooperate with the Authority in the establishment and implementation of programmes for monitoring and evaluating the impacts of deep seabed mining on the marine environment. When required by the Council, such programmes shall include proposals for areas to be set aside and used exclusively as impact reference zones and preservation reference zones. “Impact reference zones” means areas to be used for assessing the effect of activities in the Area on the marine environment and which are representative of the environmental characteristics of the Area. “Preservation reference zones” means areas in which no mining shall occur to ensure representative and stable biota of the seabed in order to assess any changes in the biodiversity of the marine environment.

Regulation 34
Environmental baselines and monitoring

1. Each contract shall require the contractor to gather environmental baseline data and to establish environmental baselines, taking into account any recommendations issued by the Legal and Technical Commission pursuant to regulation 41, against which to assess the likely effects of its programme of activities under the plan of work for exploration on the marine environment and a programme to monitor and report on such effects. The recommendations issued by the Commission may, inter alia, list those exploration activities which may be considered to have no potential for causing harmful effects on the marine environment. The contractor shall cooperate with the Authority and the sponsoring State or States in the establishment and implementation of such monitoring programme.

2. The contractor shall report annually in writing to the Secretary-General on the implementation and results of the monitoring programme referred to in paragraph 1 and shall submit data and information, taking into account any recommendations issued by the Commission pursuant to regulation 41. The Secretary-General shall transmit such reports to the Commission for its consideration pursuant to article 165 of the Convention.

Regulation 35
Emergency orders

1. A contractor shall promptly report to the Secretary-General in writing, using the most effective means, any incident arising from activities which have caused, are causing, or pose a threat of, serious harm to the marine environment.

2. When the Secretary-General has been notified by a contractor or otherwise becomes aware of an incident resulting from or caused by a contractor’s activities in the Area that has caused, is causing or poses a threat of, serious harm to the marine environment, the Secretary-General shall cause a general notification of the incident to be issued, shall notify in writing the contractor and the sponsoring State or States, and shall report immediately to the Legal and Technical Commission, to the Council and to all other members of the Authority. A copy of the report shall be circulated to competent international organizations and to concerned subregional, regional and global organizations and bodies. The Secretary-General shall monitor developments with respect to all such incidents and shall report on them as appropriate to the Commission, the Council and all other members of the Authority.

3. Pending any action by the Council, the Secretary-General shall take such immediate measures of a temporary nature as are practical and reasonable in the circumstances to prevent, contain and minimize serious harm or the threat of serious harm to the marine environment. Such temporary measures shall remain in effect for no longer than 90 days, or until the Council decides at its next regular session or a special session, what measures, if any, to take pursuant to paragraph 6 of this regulation.

4. After having received the report of the Secretary-General, the Commission shall determine, based on the evidence provided to it and taking into account the measures already taken by the contractor, which measures are necessary to respond effectively to the incident in order to prevent, contain and minimize serious harm or the threat of serious harm to the marine environment, and shall make its recommendations to the Council.

5. The Council shall consider the recommendations of the Commission.

6. The Council, taking into account the recommendations of the Commission, the report of the Secretary-General, any information provided by the Contractor and any other relevant information, may issue emergency orders, which may include orders for the suspension or adjustment of operations, as may be reasonably necessary to prevent, contain and minimize serious harm or the threat of serious harm to the marine environment arising out of activities in the Area.

7. If a contractor does not promptly comply with an emergency order to prevent, contain and minimize serious harm or the threat of serious harm to the marine environment arising out of its activities in the Area, the Council shall take by itself or through arrangements with others on its behalf, such practical measures as are necessary to prevent, contain and minimize any such serious harm or threat of serious harm to the marine environment.

8. In order to enable the Council, when necessary, to take immediately the practical measures to prevent, contain and minimize the serious harm or threat of serious harm to the marine environment referred to in paragraph 7, the contractor, prior to the commencement of testing of collecting systems and processing operations, will provide the Council with a guarantee of its financial and technical capability to comply promptly with emergency orders or to assure that the Council can take such emergency measures. If the contractor does not provide the Council with such a guarantee, the sponsoring State or States shall, in response to a request by the Secretary-General and pursuant to articles 139 and 235 of the Convention, take necessary measures to ensure that the contractor provides such a guarantee or shall take measures to ensure that assistance is provided to the Authority in the discharge of its responsibilities under paragraph 7.

Regulation 36
Rights of coastal States

1. Nothing in these Regulations shall affect the rights of coastal States in accordance with article 142 and other relevant provisions of the Convention.

2. Any coastal State which has grounds for believing that any activity in the Area by a contractor is likely to cause serious harm or a threat of serious harm to the marine environment under its jurisdiction or sovereignty may notify the Secretary-General in writing of the grounds upon which such belief is based. The Secretary-General shall provide the Contractor and its sponsoring State or States with a reasonable opportunity to examine the evidence, if any, provided by the coastal State as the basis for its belief. The contractor and its sponsoring State or States may submit their observations thereon to the Secretary-General within a reasonable time.

3. If there are clear grounds for believing that serious harm to the marine environment is likely to occur, the Secretary-General shall act in accordance with regulation 35 and, if necessary, shall take immediate measures of a temporary nature as provided for in paragraph 3 of regulation 35.

4. Contractors shall take all measures necessary to ensure that their activities are conducted so as not to cause serious harm to the marine environment, including, but not restricted to, pollution, under the jurisdiction or sovereignty of coastal States, and that such serious harm or pollution arising from incidents or activities in its exploration area does not spread beyond such area.

Regulation 37
Human remains and objects and sites of an archaeological or historical nature

The contractor shall immediately notify the Secretary-General in writing of any finding in the exploration area of any human remains of an archaeological or historical nature, or any object or site of a similar nature and its location, including the preservation and protection measures taken. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization and any other competent international organization. Following the finding of any such human remains, object or site in the exploration area, and in order to avoid disturbing such human remains, object or site, no further prospecting or exploration shall take place, within a reasonable radius, until such time as the Council decides otherwise after taking account of the views of the Director-General of the United Nations Educational, Scientific and Cultural Organization or any other competent international organization.

Part VI
Confidentiality

Regulation 38
Confidentiality of data and information

1. Data and information submitted or transferred to the Authority or to any person participating in any activity or programme of the Authority pursuant to these Regulations or a contract issued under these Regulations, and designated by the contractor, in consultation with the Secretary-General, as being of a confidential nature, shall be considered confidential unless it is data and information which:

(a) is generally known or publicly available from other sources;

(b) has been previously made available by the owner to others without an obligation concerning its confidentiality; or

(c) is already in the possession of the Authority with no obligation concerning its confidentiality.

Data and information that is necessary for the formulation by the Authority of rules, regulations and procedures concerning protection and preservation of the marine environment and safety, other than proprietary equipment design data, shall not be deemed confidential.

2. Confidential data and information may only be used by the Secretary-General and staff of the Secretariat, as authorized by the Secretary-General, and by the members of the Legal and Technical Commission as necessary for and relevant to the effective exercise of their powers and functions. The Secretary-General shall authorize access to such data and information only for limited use in connection with the functions and duties of the staff of the Secretariat and the functions and duties of the Legal and Technical Commission.

3. Ten years after the date of submission of confidential data and information to the Authority or the expiration of the contract for exploration, whichever is the later, and every five years thereafter, the Secretary-General and the contractor shall review such data and information to determine whether they should remain confidential. Such data and information shall remain confidential if the contractor establishes that there would be a substantial risk of serious and unfair economic prejudice if the data and information were to be released. No such data and information shall be released until the contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to Part XI, section 5, of the Convention.

4. If, at any time following the expiration of the contract for exploration, the contractor enters into a contract for exploitation in respect of any part of the exploration area, confidential data and information relating to that part of the area shall remain confidential in accordance with the contract for exploitation.

5. The contractor may at any time waive confidentiality of data and information.

Regulation 39
Procedures to ensure confidentiality

1. The Secretary-General shall be responsible for maintaining the confidentiality of all confidential data and information and shall not, except with the prior written consent of the contractor, release such data and information to any person external to the Authority. To ensure the confidentiality of such data and information, the Secretary-General shall establish procedures, consistent with the provisions of the Convention, governing the handling of confidential information by members of the Secretariat, members of the Legal and Technical Commission and any other person participating in any activity or programme of the Authority. Such procedures shall include:

(a) maintenance of confidential data and information in secure facilities and development of security procedures to prevent unauthorized access to or removal of such data and information;

(b) development and maintenance of a classification, log and inventory system of all written data and information received, including its type and source and routing from the time of receipt until final disposition.

2. A person who is authorized pursuant to these Regulations to have access to confidential data and information shall not disclose such data and information except as permitted under the Convention and these Regulations. The Secretary-General shall require any person who is authorized to have access to confidential data and information to make a written declaration witnessed by the Secretary-General or his or her authorized representative to the effect that the person so authorized:

(a) acknowledges his or her legal obligation under the Convention and these Regulations with respect to the non-disclosure of confidential data and information;

(b) agrees to comply with the applicable regulations and procedures established to ensure the confidentiality of such data and information.

3. The Legal and Technical Commission shall protect the confidentiality of confidential data and information submitted to it pursuant to these Regulations or a contract issued under these Regulations. In accordance with the provisions of article 163, paragraph 8, of the Convention, members of the Commission shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with annex III, article 14, of the Convention, or any other confidential information coming to their knowledge by reason of their duties for the Authority.

4. The Secretary-General and staff of the Authority shall not disclose, even after the termination of their functions with the Authority, any industrial secret, proprietary data which are transferred to the Authority in accordance with annex III, article 14, of the Convention, or any other confidential information coming to their knowledge by reason of their employment with the Authority.

5. Taking into account the responsibility and liability of the Authority pursuant to annex III, article 22, of the Convention, the Authority may take such action as may be appropriate against any person who, by reason of his or her duties for the Authority, has access to any confidential data and information and who is in breach of the obligations relating to confidentiality contained in the Convention and these Regulations.

Part VII
General procedures

Regulation 40
Notice and general procedures

1. Any application, request, notice, report, consent, approval, waiver, direction or instruction hereunder shall be made by the Secretary-General or by the designated representative of the prospector, applicant or contractor, as the case may be, in writing. Service shall be by hand, or by telex, facsimile, registered airmail or electronic mail containing an authorized electronic signature to the Secretary-General at the headquarters of the Authority or to the designated representative.

2. Delivery by hand shall be effective when made. Delivery by telex shall be deemed to be effective on the business day following the day when the "answer back" appears on the sender's telex machine. Delivery by facsimile shall be effective when the "transmit confirmation report" confirming the transmission to the recipient's published facsimile number is received by the transmitter. Delivery by registered airmail shall be deemed to be effective 21 days after posting. An electronic document is presumed to be received by the addressee when it enters an information system designated or used by the addressee for the purpose of receiving documents of the type sent and is capable of being retrieved and processed by the addressee.

3. Notice to the designated representative of the prospector, applicant or contractor shall constitute effective notice to the prospector, applicant or contractor for all purposes under these Regulations, and the designated representative shall be the agent of the prospector, applicant or contractor for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

4. Notice to the Secretary-General shall constitute effective notice to the Authority for all purposes under these Regulations, and the Secretary-General shall be the Authority's agent for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

Regulation 41
Recommendations for the guidance of contractors

1. The Legal and Technical Commission may from time to time issue recommendations of a technical or administrative nature for the guidance of contractors to assist them in the implementation of the rules, regulations and procedures of the Authority.

2. The full text of such recommendations shall be reported to the Council. Should the Council find that a recommendation is inconsistent with the intent and purpose of these Regulations, it may request that the recommendation be modified or withdrawn.

Part VIII
Settlement of disputes

Regulation 42
Disputes

1. Disputes concerning the interpretation or application of these Regulations shall be settled in accordance with Part XI, section 5, of the Convention.

2. Any final decision rendered by a court or tribunal having jurisdiction under the Convention relating to the rights and obligations of the Authority and of the Contractor shall be enforceable in the territory of each State Party to the Convention.

Part IX
Resources other than cobalt crusts

Regulation 43
Resources other than cobalt crusts

If a prospector or contractor finds resources in the Area other than cobalt crusts, the prospecting and exploration for and exploitation of such resources shall be subject to the rules, regulations and procedures of the Authority relating to such resources in accordance with the Convention and the Agreement. The prospector or contractor shall notify the Authority of its find.

Part X
Review

Regulation 44
Review

1. Five years following the approval of these Regulations by the Assembly, or at any time thereafter, the Council shall undertake a review of the manner in which the Regulations have operated in practice.

2. If, in the light of improved knowledge or technology, it becomes apparent that the Regulations are not adequate, any State Party, the Legal and Technical Commission, or any contractor through its sponsoring State may at any time request the Council to consider, at its next ordinary session, revisions to these Regulations.

3. In the light of the review, the Council may amend the provisions of these Regulations. Any such amendments shall be without prejudice to the rights conferred on any Contractor with the Authority under the provisions of a contract entered into pursuant to these Regulations in force at the time of any such amendment.

4. In the event that any provisions of these Regulations are amended, the Contractor and the Authority may revise the contract in accordance with section 24 of annex 4.

Annex 1
Notification of intention to engage in prospecting

1. Name of prospector:
2. Street address of prospector:
3. Postal address (if different from above):
4. Telephone number:
5. Facsimile number:
6. Electronic mail address:
7. Nationality of prospector:
8. If prospector is a juridical person, identify prospector's:
   (a) place of registration; and
   (b) principal place of business/domicile;

and attach a copy of the prospector's certificate of registration.

9. Name of prospector's designated representative:

10. Street address of prospector's designated representative (if different from above):

11. Postal address (if different from above):

12. Telephone number:

13. Facsimile number:

14. Electronic mail address:

15. Attach the coordinates of the broad area or areas in which prospecting is to be conducted (in accordance with the World Geodetic System WGS 84).

16. Attach a general description of the prospecting programme, including the date of commencement and the approximate duration of the programme.

17. Attach a written undertaking that the prospector will:

(a) comply with the Convention and the relevant rules, regulations and procedures of the Authority concerning:

(i) cooperation in the training programmes in connection with marine scientific research and transfer of technology referred to in articles 143 and 144 of the Convention; and

(ii) protection and preservation of the marine environment; and

(b) accept verification by the Authority of compliance therewith.

18. List hereunder all the attachments and annexes to this notification (all data and information should be submitted in hard copy and in a digital format specified by the Authority):

_____ _____

Date Signature of prospector's designated representative

ATTESTATION:

_____

Signature of person attesting

_____

Name of person attesting

_____

Title of person attesting

Annex 2

Application for approval of a plan of work for exploration to obtain a contract

Section I
Information concerning the applicant

1. Name of applicant:

2. Street address of applicant:

3. Postal address (if different from above):

4. Telephone number:

5. Facsimile number:

6. Electronic mail address:

7. Name of applicant's designated representative:

8. Street address of applicant's designated representative (if different from above):

9. Postal address (if different from above):

10. Telephone number:

11. Facsimile number:

12. Electronic mail address:

13. If the applicant is a juridical person, identify applicant's:

(a) place of registration; and

(b) principal place of business/domicile;

and attach a copy of the applicant's certificate of registration.

14. Identify the sponsoring State or States.

15. In respect of each sponsoring State, provide the date of deposit of its instrument of ratification of, or accession or succession to, the 1982 United Nations Convention on the Law of the Sea and the date of its consent to be bound by the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

16. A certificate of sponsorship issued by the sponsoring State must be attached with this application. If the applicant has more than one nationality, as in the case of a partnership or consortium of entities from more than one State, certificates of sponsorship issued by each of the States involved must be attached.

Section II
Information relating to the area under application

17. Define the boundaries of the blocks under application by attaching a chart (on a scale and projection specified by the Authority) and a list of geographical coordinates (in accordance with the World Geodetic System WGS 84).

18. Indicate whether the applicant elects to contribute a reserved area in accordance with regulation 17 or offer an equity interest in a joint venture arrangement in accordance with regulation 19.

19. If the applicant elects to contribute a reserved area:

(a) Attach a chart (on a scale and projection specified by the Authority) and a list of the coordinates dividing the total area into two parts of equal estimated commercial value; and

(b) Include in an attachment sufficient information to enable the Council to designate a reserved area based on the estimated commercial value of each part of the area under application. Such attachment must include the data available to the applicant with respect to both parts of the area under application, including:

(i) Data on the location, survey and evaluation of the cobalt crusts in the areas, including:

a. A description of the technology related to the recovery and processing of cobalt crusts that is necessary for making the designation of a reserved area;

b. A map of the physical and geological characteristics, such as seabed topography, bathymetry and bottom currents and information on the reliability of such data;

c. A map showing the remotely sensed data (such as electromagnetic surveys) and other survey data used to determine the lateral extent of each cobalt crust deposit;

d. Data showing the average tonnage (in metric tonnes) of each cobalt crust body that will comprise the mine site and an associated tonnage map showing the location of sampling sites;

e. Combined maps of tonnage and grade of cobalt crusts;

f. A calculation based on standard procedures, including statistical analysis, using the data submitted and assumptions made in the calculations that the two areas could be expected to contain cobalt crusts of equal estimated commercial value expressed as recoverable metals in mineable areas;

g. A description of the techniques used by the applicant;

(ii) Information concerning environmental parameters (seasonal and during test period) including, inter alia, wind speed and direction, water salinity, temperature and biological communities.

20. If the area under application includes any part of a reserved area, attach a list of coordinates of the area which forms part of the reserved area and indicate the applicant's qualifications in accordance with regulation 18 of the Regulations.

Section III
Financial and technical information

21. Attach sufficient information to enable the Council to determine whether the applicant is financially capable of carrying out the proposed plan of work for exploration and of fulfilling its financial obligations to the Authority:

(a) If the application is made by the Enterprise, attach certification by its competent authority that the Enterprise has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration;

(b) If the application is made by a State or a state enterprise, attach a statement by the State or the sponsoring State certifying that the applicant has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration;

(c) If the application is made by an entity, attach copies of the applicant's audited financial statements, including balance sheets and profit-and-loss statements, for the most recent three years in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants; and

(i) if the applicant is a newly organized entity and a certified balance sheet is not available, a pro forma balance sheet certified by an appropriate official of the applicant;

(ii) if the applicant is a subsidiary of another entity, copies of such financial statements of that entity and a statement from that entity in conformity with internationally accepted accounting practices and certified by a duly qualified firm of public accountants that the applicant will have the financial resources to carry out the plan of work for exploration;

(iii) if the applicant is controlled by a State or a state enterprise, a statement from the State or state enterprise certifying that the applicant will have the financial resources to carry out the plan of work for exploration.

22. If it is intended to finance the proposed plan of work for exploration by borrowings, attach a statement of the amount of such borrowings, the repayment period and the interest rate.

23. Attach sufficient information to enable the Council to determine whether the applicant is technically capable of carrying out the proposed plan of work for exploration, including:

(a) a general description of the applicant's previous experience, knowledge, skills, technical qualifications and expertise relevant to the proposed plan of work for exploration;

(b) a general description of the equipment and methods expected to be used in carrying out the proposed plan of work for exploration and other relevant non-proprietary information about the characteristics of such technology;

(c) a general description of the applicant's financial and technical capability to respond to any incident or activity which causes serious harm to the marine environment.

Section IV
The plan of work for exploration

24. Attach the following information relating to the plan of work for exploration:

(a) a general description and a schedule of the proposed exploration programme, including the programme of activities for the immediate five-year period, such as studies to be undertaken in respect of the environmental, technical, economic and other appropriate factors which must be taken into account in exploration;

(b) a description of a programme for oceanographic and environmental baseline studies in accordance with the Regulations and any environmental rules, regulations and procedures established by the Authority that would enable an assessment of the potential environmental impact including, but not restricted to, the impact on biodiversity, of the proposed exploration activities, taking into account any recommendations issued by the Legal and Technical Commission;

(c) a preliminary assessment of the possible impact of the proposed exploration activities on the marine environment;

(d) a description of proposed measures for the prevention, reduction and control of pollution of other hazards, as well as possible impacts, to the marine environment;

(e) a schedule of anticipated yearly expenditures in respect of the programme of activities for the immediate five-year period.

Section V
Undertakings

25. Attach a written undertaking that the applicant will:

(a) accept as enforceable and comply with the applicable obligations created by the provisions of the Convention and the rules, regulations and procedures of the Authority, the decisions of the relevant organs of the Authority and the terms of its contracts with the Authority;

(b) accept control by the Authority of activities in the Area as authorized by the Convention;

(c) provide the Authority with a written assurance that its obligations under the contract will be fulfilled in good faith.

Section VI
Previous contracts

26. Has the applicant or, in the case of an application by a partnership or consortium of entities in a joint arrangement, any member of the partnership or consortium previously been awarded any contract with the Authority?

27. If the answer to 26 is "yes", the application must include:

(a) the date of the previous contract or contracts;

(b) the dates, reference numbers and titles of each report submitted to the Authority in connection with the contact or contracts; and

(c) the date of termination of the contract or contracts, if applicable.

Section VII
Attachments

28. List all the attachments and annexes to this application (all data and information should be submitted in hard copy and in a digital format specified by the Authority):

_____ _____

Date Signature of applicant's designated representative

ATTESTATION:

_____
Signature of person attesting

_____
Name of person attesting

_____
Title of person attesting

Annex 3
Contract for exploration

THIS CONTRACT made the … day of … between the **INTERNATIONAL SEABED AUTHORITY** represented by its **SECRETARY-GENERAL** (hereinafter referred to as "the Authority") and … represented by … (hereinafter referred to as "the Contractor") **WITNESSETH** as follows:

Incorporation of clauses

A. The standard clauses set out in annex 4 to the Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese Crusts in the Area shall be incorporated herein and shall have effect as if herein set out at length.

Exploration area

B. For the purposes of this contract, the "exploration area" means that part of the Area allocated to the Contractor for exploration, defined by the coordinates listed in schedule 1 hereto, as reduced from time to time in accordance with the standard clauses and the Regulations.

Grant of rights

C. In consideration of:

(1) Their mutual interest in the conduct of exploration activities in the exploration area pursuant to the Convention and the Agreement;

(2) The responsibility of the Authority to organize and control activities in the Area, particularly with a view to administering the resources of the Area, in accordance with the legal regime established in Part XI of the Convention and the Agreement and Part XII of the Convention respectively; and

(3) The interest and financial commitment of the Contractor in conducting activities in the exploration area and the mutual covenants made herein;

the Authority hereby grants to the Contractor the exclusive right to explore for cobalt crusts in the exploration area in accordance with the terms and conditions of this contract.

Entry into force and contract term

D. This contract shall enter into force on signature by both parties and, subject to the standard clauses, shall remain in force for a period of fifteen years thereafter unless:

(1) The Contractor obtains a contract for exploitation in the exploration area which enters into force before the expiration of such period of fifteen years; or

(2) The contract is sooner terminated provided that the term of the contract may be extended in accordance with standard clauses 3.2 and 17.2.

Schedules

E. The schedules referred to in the standard clauses, namely section 4 and section 8, are for the purposes of this contract schedules 2 and 3 respectively.

Entire agreement

F. This contract expresses the entire agreement between the parties, and no oral understanding or prior writing shall modify the terms hereof.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by the respective parties, have signed this contract at …, this … day of …

Schedule 1

[Coordinates and illustrative chart of the exploration area]

Schedule 2

[The current five-year programme of activities as revised from time to time]

Schedule 3

[The training programme shall become a schedule to the contract when approved by the Authority in accordance with section 8 of the standard clauses.]

Annex 4
Standard clauses for exploration contract

Section 1
Definitions

1.1 In the following clauses:

(a) "exploration area" means that part of the Area allocated to the Contractor for exploration, described in schedule 1 hereto, as the same may be reduced from time to time in accordance with this contract and the Regulations;

(b) "programme of activities" means the programme of activities which is set out in schedule 2 hereto as the same may be adjusted from time to time in accordance with sections 4.3 and 4.4 hereof;

(c) "regulations" means the Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese Crusts in the Area, adopted by the Authority.

1.2 Terms and phrases defined in the Regulations shall have the same meaning in these standard clauses.

1.3 In accordance with the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, its provisions and Part XI of the Convention are to be interpreted and applied together as a single instrument; this contract and references in this contract to the Convention are to be interpreted and applied accordingly.

1.4 This contract includes the schedules to this contract, which shall be an integral part hereof.

Section 2
Security of tenure

2.1 The Contractor shall have security of tenure and this contract shall not be suspended, terminated or revised except in accordance with sections 20, 21 and 24 hereof.

2.2 The Contractor shall have the exclusive right to explore for cobalt crusts in the exploration area in accordance with the terms and conditions of this contract. The Authority shall ensure that no other entity operates in the exploration area for a different category of resources in a manner that might unreasonably interfere with the operations of the Contractor.

2.3 The Contractor, by notice to the Authority, shall have the right at any time to renounce without penalty the whole or part of its rights in the exploration area, provided that the Contractor shall remain liable for all obligations accrued prior to the date of such renunciation in respect of the area renounced.

2.4 Nothing in this contract shall be deemed to confer any right on the Contractor other than those rights expressly granted herein. The Authority reserves the right to enter into contracts with respect to resources other than cobalt crusts with third parties in the area covered by this contract.

Section 3
Contract term

3.1 This contract shall enter into force on signature by both parties and shall remain in force for a period of fifteen years thereafter unless:

(a) the Contractor obtains a contract for exploitation in the exploration area which enters into force before the expiration of such period of fifteen years; or

(b) the contract is sooner terminated, provided that the term of the contract may be extended in accordance with sections 3.2 and 17.2 hereof.

3.2 Upon application by the Contractor, not later than six months before the expiration of this contract, this contract may be extended for periods of not more than five years each on such terms and conditions as the Authority and the Contractor may then agree in accordance with the Regulations. Such extensions shall be approved if the Contractor has made efforts in good faith to comply with the requirements of this contract but for reasons beyond the Contractor's control has been unable to complete the necessary preparatory work for proceeding to the exploitation stage or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

3.3 Notwithstanding the expiration of this contract in accordance with section 3.1 hereof, if the Contractor has, at least 90 days prior to the date of expiration, applied for a contract for exploitation, the Contractor's rights and obligations under this contract shall continue until such time as the application has been considered and a contract for exploitation has been issued or refused.

Section 4
Exploration

4.1 The Contractor shall commence exploration in accordance with the time schedule stipulated in the programme of activities set out in schedule 2 hereto and shall adhere to such time periods or any modification thereto as provided for by this contract.

4.2 The Contractor shall carry out the programme of activities set out in schedule 2 hereto. In carrying out such activities the Contractor shall spend in each contract year not less than the amount specified in such programme, or any agreed review thereof, in actual and direct exploration expenditures.

4.3 The Contractor, with the consent of the Authority, which consent shall not be unreasonably withheld, may from time to time make such changes in the programme of activities and the expenditures specified therein as may be necessary and prudent in accordance with good mining industry practice, and taking into account the market conditions for the metals contained in cobalt crusts and other relevant global economic conditions.

4.4 Not later than 90 days prior to the expiration of each five-year period from the date on which this contract enters into force in accordance with section 3 hereof, the Contractor and the Secretary-General shall jointly undertake a review of the implementation of the plan of work for exploration under this contract. The Secretary-General may require the Contractor to submit such additional data and information as may be necessary for the purposes of the review. In the light of the review, the Contractor shall make such adjustments to its plan of work as are necessary and shall indicate its programme of activities for the following five-year period, including a revised schedule of anticipated yearly expenditures. Schedule 2 hereto shall be adjusted accordingly.

Section 5
Environmental monitoring

5.1 The Contractor shall take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from its activities in the Area as far as reasonably possible applying a precautionary approach and best environmental practices.

5.2 Prior to the commencement of exploration activities, the Contractor shall submit to the Authority:

(a) an impact assessment of the potential effects on the marine environment of the proposed activities;

(b) a proposal for a monitoring programme to determine the potential effect on the marine environment of the proposed activities; and

(c) data that could be used to establish an environmental baseline against which to assess the effect of the proposed activities.

5.3 The Contractor shall, in accordance with the Regulations, gather environmental baseline data as exploration activities progress and develop and shall establish environmental baselines against which to assess the likely effects of the Contractor's activities on the marine environment.

5.4 The Contractor shall, in accordance with the Regulations, establish and carry out a programme to monitor and report on such effects on the marine environment. The Contractor shall cooperate with the Authority in the implementation of such monitoring.

5.5 The Contractor shall, within 90 days of the end of each calendar year, report to the Secretary-General on the implementation and results of the monitoring programme referred to in section 5.4 hereof and shall submit data and information in accordance with the Regulations.

Section 6
Contingency plans and emergencies

6.1 The Contractor shall, prior to the commencement of its programme of activities under this contract, submit to the Secretary-General a contingency plan to respond effectively to incidents that are likely to cause serious harm or a threat of serious harm to the marine environment arising from the Contractor's activities at sea in the exploration area. Such contingency plan shall establish special procedures and provide for adequate and appropriate equipment to deal with such incidents and, in particular, shall include arrangements for:

(a) the immediate raising of a general alarm in the area of the exploration activities;

(b) immediate notification to the Secretary-General;

(c) the warning of ships which might be about to enter the immediate vicinity;

(d) a continuing flow of full information to the Secretary-General relating to particulars of the contingency measures already taken and further actions required;

(e) the removal, as appropriate, of polluting substances;

(f) the reduction and, so far as reasonably possible, prevention of serious harm to the marine environment, as well as mitigation of such effects;

(g) as appropriate, cooperation with other contractors with the Authority to respond to an emergency; and

(h) periodic emergency response exercises.

6.2 The Contractor shall promptly report to the Secretary-General any incident arising from its activities that has caused, is causing or poses a threat of serious harm to the marine environment. Each such report shall contain the details of such incident, including, inter alia:

(a) the coordinates of the area affected or which can reasonably be anticipated to be affected;

(b) the description of the action being taken by the Contractor to prevent, contain, minimize and repair the serious harm or threat of serious harm to the marine environment;

(c) a description of the action being taken by the Contractor to monitor the effects of the incident on the marine environment; and

(d) such supplementary information as may reasonably be required by the Secretary-General.

6.3 The Contractor shall comply with emergency orders issued by the Council and immediate measures of a temporary nature issued by the Secretary-General in accordance with the Regulations, to prevent, contain, minimize or repair serious harm or the threat of serious harm to the marine environment, which may include orders to the Contractor to immediately suspend or adjust any activities in the exploration area.

6.4 If the Contractor does not promptly comply with such emergency orders or immediate measures of a temporary nature, the Council may take such reasonable measures as are necessary to prevent, contain, minimize or repair any such serious harm or the threat of serious harm to the marine environment at the Contractor's expense. The Contractor shall promptly reimburse the Authority the amount of such expenses. Such expenses shall be in addition to any monetary penalties which may be imposed on the Contractor pursuant to the terms of this contract or the Regulations.

Section 7
Human remains and objects and sites of an archaeological or historical nature

The Contractor shall immediately notify the Secretary-General in writing of any finding in the exploration area of any human remains of an archaeological or historical nature, or any object or site of a similar nature and its location, including the preservation and protection measures taken. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization and any other competent international organization. Following the finding of any such human remains, object or site in the exploration area, and in order to avoid disturbing such human remains, object or site, no further prospecting or exploration shall take place, within a reasonable radius, until such time as the Council decides otherwise after taking account of the views of the Director-General of the United Nations Educational, Scientific and Cultural Organization or any other competent international organization.

Section 8
Training

8.1 In accordance with the Regulations, the Contractor shall, prior to the commencement of exploration under this contract, submit to the Authority for approval proposed training programmes for the training of personnel of the Authority and developing States, including the participation of such personnel in all of the Contractor's activities under this contract.

8.2 The scope and financing of the training programme shall be subject to negotiation between the Contractor, the Authority and the sponsoring State or States.

8.3 The Contractor shall conduct training programmes in accordance with the specific programme for the training of personnel referred to in section 8.1 hereof approved by the Authority in accordance with the Regulations, which programme, as revised and developed from time to time, shall become a part of this contract as schedule 3.

Section 9
Books and records

The Contractor shall keep a complete and proper set of books, accounts and financial records, consistent with internationally accepted accounting principles. Such books, accounts and financial records shall include information which will fully disclose the actual and direct expenditures for exploration and such other information as will facilitate an effective audit of such expenditures.

Section 10
Annual reports

10.1 The Contractor shall, within 90 days of the end of each calendar year, submit a report to the Secretary-General in such format as may be recommended from time to time by the Legal and Technical Commission covering its programme of activities in the exploration area and containing, as applicable, information in sufficient detail on:

(a) the exploration work carried out during the calendar year, including maps, charts and graphs illustrating the work that has been done and the results obtained;

(b) the equipment used to carry out the exploration work, including the results of tests conducted of proposed mining technologies, but not equipment design data; and

(c) the implementation of training programmes, including any proposed revisions to or developments of such programmes.

10.2 Such reports shall also contain:

(a) the results obtained from environmental monitoring programmes, including observations, measurements, evaluations and analyses of environmental parameters;

(b) a statement of the quantity of cobalt crusts recovered as samples or for the purpose of testing;

(c) a statement, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, or, where the Contractor is a State or a state enterprise, by the sponsoring State, of the actual and direct exploration expenditures of the Contractor in carrying out the programme of activities during the Contractor's accounting year. Such expenditures may be claimed by the contractor as part of the contractor's development costs incurred prior to the commencement of commercial production; and

(d) details of any proposed adjustments to the programme of activities and the reasons for such adjustments.

10.3 The Contractor shall also submit such additional information to supplement the reports referred to in sections 10.1 and 10.2 hereof as the Secretary-General may from time to time reasonably require in order to carry out the Authority's functions under the Convention, the Regulations and this contract.

10.4 The Contractor shall keep, in good condition, a representative portion of samples and cores of the cobalt crusts obtained in the course of exploration until the expiration of this contract. The Authority may request the Contractor in writing to deliver to it for analysis a portion of any such sample and cores obtained during the course of exploration.

Section 11
Data and information to be submitted on expiration of the contract

11.1 The Contractor shall transfer to the Authority all data and information that are both necessary for and relevant to the effective exercise of the powers and functions of the Authority in respect of the exploration area in accordance with the provisions of this section.

11.2 Upon expiration or termination of this contract the Contractor, if it has not already done so, shall submit the following data and information to the Secretary-General:

(a) copies of geological, environmental, geochemical and geophysical data acquired by the Contractor in the course of carrying out the programme of activities that are necessary for and relevant to the effective exercise of the powers and functions of the Authority in respect of the exploration area;

(b) the estimation of mineable deposits, when such deposits have been identified, which shall include details of the grade and quantity of the proven, probable and possible cobalt crust reserves and the anticipated mining conditions;

(c) copies of geological, technical, financial and economic reports made by or for the Contractor that are necessary for and relevant to the effective exercise of the powers and functions of the Authority in respect of the exploration area;

(d) information in sufficient detail on the equipment used to carry out the exploration work, including the results of tests conducted of proposed mining technologies, but not equipment design data;

(e) a statement of the quantity of cobalt crusts recovered as samples or for the purpose of testing; and

(f) a statement on how and where samples of cores are archived and their availability to the Authority.

11.3 The data and information referred to in section 11.2 hereof shall also be submitted to the Secretary-General if, prior to the expiration of this contract, the Contractor applies for approval of a plan of work for

exploitation or if the Contractor renounces its rights in the exploration area to the extent that such data and information relates to the renounced area.

Section 12
Confidentiality

Data and information transferred to the Authority in accordance with this contract shall be treated as confidential in accordance with the provisions of the Regulations.

Section 13
Undertakings

13.1 The Contractor shall carry out exploration in accordance with the terms and conditions of this contract, the Regulations, Part XI of the Convention, the Agreement and other rules of international law not incompatible with the Convention.

13.2 The Contractor undertakes:

(a) to accept as enforceable and comply with the terms of this contract;

(b) to comply with the applicable obligations created by the provisions of the Convention, the rules, regulations and procedures of the Authority and the decisions of the relevant organs of the Authority;

(c) to accept control by the Authority of activities in the Area as authorized by the Convention;

(d) to fulfil its obligations under this contract in good faith; and

(e) to observe, as far as reasonably practicable, any recommendations which may be issued from time to time by the Legal and Technical Commission.

13.3 The Contractor shall actively carry out the programme of activities:

(a) with due diligence, efficiency and economy;

(b) with due regard to the impact of its activities on the marine environment; and

(c) with reasonable regard for other activities in the marine environment.

13.4 The Authority undertakes to fulfil in good faith its powers and functions under the Convention and the Agreement in accordance with article 157 of the Convention.

Section 14
Inspection

14.1 The Contractor shall permit the Authority to send its inspectors on board vessels and installations used by the Contractor to carry out activities in the exploration area to:

(a) monitor the Contractor's compliance with the terms and conditions of this contract and the Regulations; and

(b) monitor the effects of such activities on the marine environment.

14.2 The Secretary-General shall give reasonable notice to the Contractor of the projected time and duration of inspections, the name of the inspectors and any activities the inspectors are to perform that are likely to require the availability of special equipment or special assistance from personnel of the Contractor.

14.3 Such inspectors shall have the authority to inspect any vessel or installation, including its log, equipment, records, facilities, all other recorded data and any relevant documents which are necessary to monitor the Contractor's compliance.

14.4 The Contractor, its agents and employees shall assist the inspectors in the performance of their duties and shall:

(a) accept and facilitate prompt and safe boarding of vessels and installations by inspectors;

(b) cooperate with and assist in the inspection of any vessel or installation conducted pursuant to these procedures;

(c) provide access to all relevant equipment, facilities and personnel on vessels and installations at all reasonable times;

(d) not obstruct, intimidate or interfere with inspectors in the performance of their duties;

(e) provide reasonable facilities, including, where appropriate, food and accommodation, to inspectors; and

(f) facilitate safe disembarkation by inspectors.

14.5 Inspectors shall avoid interference with the safe and normal operations on board vessels and installations used by the Contractor to carry out activities in the area visited and shall act in accordance with the Regulations and the measures adopted to protect confidentiality of data and information.

14.6 The Secretary-General and any duly authorized representatives of the Secretary-General, shall have access, for purposes of audit and examination, to any books, documents, papers and records of the Contractor which are necessary and directly pertinent to verify the expenditures referred to in section 10.2 (c).

14.7 The Secretary-General shall provide relevant information contained in the reports of inspectors to the Contractor and its sponsoring State or States where action is necessary.

14.8 If for any reason the Contractor does not pursue exploration and does not request a contract for exploitation, it shall, before withdrawing from the exploration area, notify the Secretary-General in writing in order to permit the Authority, if it so decides, to carry out an inspection pursuant to this section.

Section 15
Safety, labour and health standards

15.1 The Contractor shall comply with the generally accepted international rules and standards established by competent international organizations or general diplomatic conferences concerning the safety of life at sea, and the prevention of collisions and such rules, regulations and procedures as may be adopted by the Authority relating to safety at sea. Each vessel used for carrying out activities in the Area shall possess current valid certificates required by and issued pursuant to such international rules and standards.

15.2 The Contractor shall, in carrying out exploration under this contract, observe and comply with such rules, regulations and procedures as may be adopted by the Authority relating to protection against discrimination in employment, occupational safety and health, labour relations, social security, employment security and living conditions at the work site. Such rules, regulations and procedures shall take into account conventions and recommendations of the International Labour Organization and other competent international organizations.

Section 16
Responsibility and liability

16.1 The Contractor shall be liable for the actual amount of any damage, including damage to the marine environment, arising out of its wrongful acts or omissions, and those of its employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of its operations under this contract, including the costs of reasonable measures to prevent or limit damage to the marine environment, account being taken of any contributory acts or omissions by the Authority.

16.2 The Contractor shall indemnify the Authority, its employees, subcontractors and agents against all claims and liabilities of any third party arising out of any wrongful acts or omissions of the Contractor and its employees, agents and subcontractors, and all persons engaged in working or acting for them in the conduct of its operations under this contract.

16.3 The Authority shall be liable for the actual amount of any damage to the Contractor arising out of its wrongful acts in the exercise of its powers and functions, including violations under article 168, paragraph 2, of the Convention, account being taken of contributory acts or omissions by the Contractor, its employees, agents and subcontractors, and all persons engaged in working or acting for them in the conduct of its operations under this contract.

16.4 The Authority shall indemnify the Contractor, its employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of its operations under this contract, against all claims and liabilities of any third party arising out of any wrongful acts or omissions in the exercise of its powers and functions hereunder, including violations under article 168, paragraph 2, of the Convention.

16.5 The Contractor shall maintain appropriate insurance policies with internationally recognized carriers, in accordance with generally accepted international maritime practice.

Section 17
Force majeure

17.1 The Contractor shall not be liable for an unavoidable delay or failure to perform any of its obligations under this contract due to force majeure. For the purposes of this contract, force majeure shall mean an event or condition that the Contractor could not reasonably be expected to prevent or control; provided that the event or condition was not caused by negligence or by a failure to observe good mining industry practice.

17.2 The Contractor shall, upon request, be granted a time extension equal to the period by which performance was delayed hereunder by force majeure and the term of this contract shall be extended accordingly.

17.3 In the event of force majeure, the Contractor shall take all reasonable measures to remove its inability to perform and comply with the terms and conditions of this contract with a minimum of delay; provided that the Contractor shall not be obligated to resolve or terminate any labour dispute or any other disagreement with a third party except on terms satisfactory to it or pursuant to a final decision of any agency having jurisdiction to resolve the dispute.

17.4 The Contractor shall give notice to the Authority of the occurrence of an event of force majeure as soon as reasonably possible, and similarly give notice to the Authority of the restoration of normal conditions.

Section 18
Disclaimer

Neither the Contractor nor any affiliated company or subcontractor shall in any manner claim or suggest, whether expressly or by implication, that the Authority or any official thereof has, or has expressed, any opinion

with respect to cobalt crusts in the exploration area and a statement to that effect shall not be included in or endorsed on any prospectus, notice, circular, advertisement, press release or similar document issued by the Contractor, any affiliated company or any subcontractor that refers directly or indirectly to this contract. For the purposes of this section, an "affiliated company" means any person, firm or company or State-owned entity controlling, controlled by, or under common control with, the Contractor.

Section 19
Renunciation of rights

The Contractor, by notice to the Authority, shall have the right to renounce its rights and terminate this contract without penalty, provided that the Contractor shall remain liable for all obligations accrued prior to the date of such renunciation and those obligations required to be fulfilled after termination in accordance with the Regulations.

Section 20
Termination of sponsorship

20.1 If the nationality or control of the Contractor changes or the Contractor's sponsoring State, as defined in the Regulations, terminates its sponsorship, the Contractor shall promptly notify the Authority forthwith.

20.2 In either such event, if the Contractor does not obtain another sponsor meeting the requirements prescribed in the Regulations which submits to the Authority a certificate of sponsorship for the Contractor in the prescribed form within the time specified in the Regulations, this contract shall terminate forthwith.

Section 21
Suspension and termination of contract and penalties

21.1 The Council may suspend or terminate this contract, without prejudice to any other rights that the Authority may have, if any of the following events should occur:

(a) if, in spite of written warnings by the Authority, the Contractor has conducted its activities in such a way as to result in serious persistent and wilful violations of the fundamental terms of this contract, Part XI of the Convention, the Agreement and the rules, regulations and procedures of the Authority; or

(b) if the Contractor has failed to comply with a final binding decision of the dispute settlement body applicable to it; or

(c) if the Contractor becomes insolvent or commits an act of bankruptcy or enters into any agreement for composition with its creditors or goes into liquidation or receivership, whether compulsory or voluntary, or petitions or applies to any tribunal for the appointment of a receiver or a trustee or receiver for itself or commences any proceedings relating to itself under any bankruptcy, insolvency or readjustment of debt law, whether now or hereafter in effect, other than for the purpose of reconstruction.

21.2 Any suspension or termination shall be by notice, through the Secretary-General, which shall include a statement of the reasons for taking such action. The suspension or termination shall be effective 60 days after such notice, unless the Contractor within such period disputes the Authority's right to suspend or terminate this contract in accordance with Part XI, section 5, of the Convention.

21.3 If the Contractor takes such action, this contract shall only be suspended or terminated in accordance with a final binding decision in accordance with Part XI, section 5, of the Convention.

21.4 If the Council has suspended this contract, the Council may by notice require the Contractor to resume its operations and comply with the terms and conditions of this contract, not later than 60 days after such notice.

21.5 In the case of any violation of this contract not covered by section 21.1 (a) hereof, or in lieu of suspension or termination under section 21.1 hereof, the Council may impose upon the Contractor monetary penalties proportionate to the seriousness of the violation.

21.6 The Council may not execute a decision involving monetary penalties until the Contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to Part XI, section 5, of the Convention.

21.7 In the event of termination or expiration of this contract, the Contractor shall comply with the Regulations and shall remove all installations, plant, equipment and materials in the exploration area and shall make the area safe so as not to constitute a danger to persons, shipping or to the marine environment.

Section 22
Transfer of rights and obligations

22.1 The rights and obligations of the Contractor under this contract may be transferred in whole or in part only with the consent of the Authority and in accordance with the Regulations.

22.2 The Authority shall not unreasonably withhold consent to the transfer if the proposed transferee is in all respects a qualified applicant in accordance with the Regulations and assumes all of the obligations of the Contractor and if the transfer does not confer to the transferee a plan of work, the approval of which would be forbidden by annex III, article 6, paragraph 3 (c), of the Convention.

22.3 The terms, undertakings and conditions of this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 23
No waiver

No waiver by either party of any rights pursuant to a breach of the terms and conditions of this contract to be performed by the other party shall be construed as a waiver by the party of any succeeding breach of the same or any other term or condition to be performed by the other party.

Section 24
Revision

24.1 When circumstances have arisen or are likely to arise which, in the opinion of the Authority or the Contractor, would render this contract inequitable or make it impracticable or impossible to achieve the objectives set out in this contract or in Part XI of the Convention or the Agreement, the parties shall enter into negotiations to revise it accordingly.

24.2 This contract may also be revised by agreement between the Contractor and the Authority to facilitate the application of any rules, regulations and procedures adopted by the Authority subsequent to the entry into force of this contract.

24.3 This contract may be revised, amended or otherwise modified only with the consent of the Contractor and the Authority by an appropriate instrument signed by the authorized representatives of the parties.

Section 25
Disputes

25.1 Any dispute between the parties concerning the interpretation or application of this contract shall be settled in accordance with Part XI, section 5, of the Convention.

25.2 Any final decision rendered by a court or tribunal having jurisdiction under the Convention relating to the rights and obligations of the Authority and of the Contractor shall be enforceable in the territory of each State Party to the Convention.

Section 26
Notice

26.1 Any application, request, notice, report, consent, approval, waiver, direction or instruction hereunder shall be made by the Secretary-General or by the designated representative of the Contractor, as the case may be, in writing. Service shall be by hand, or by telex, facsimile, registered airmail or electronic mail containing an authorized signature to the Secretary-General at the headquarters of the Authority or to the designated representative. The requirement to provide any information in writing under these Regulations is satisfied by the provision of the information in an electronic document containing a digital signature.

26.2 Either party shall be entitled to change any such address to any other address by not less than ten days' notice to the other party.

26.3 Delivery by hand shall be effective when made. Delivery by telex shall be deemed to be effective on the business day following the day when the "answer back" appears on the sender's telex machine. Delivery by facsimile shall be effective when the "transmit confirmation report" confirming the transmission to the recipient's published facsimile number is received by the transmitter. Delivery by registered airmail shall be deemed to be effective 21 days after posting. An electronic document is presumed to have been received by the addressee when it enters an information system designated or used by the addressee for the purpose of receiving documents of the type sent and it is capable of being retrieved and processed by the addressee.

26.4 Notice to the designated representative of the Contractor shall constitute effective notice to the Contractor for all purposes under this contract, and the designated representative shall be the Contractor's agent for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

26.5 Notice to the Secretary-General shall constitute effective notice to the Authority for all purposes under this contract, and the Secretary-General shall be the Authority's agent for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

Section 27
Applicable law

27.1 This contract shall be governed by the terms of this contract, the rules, regulations and procedures of the Authority, Part XI of the Convention, the Agreement and other rules of international law not incompatible with the Convention.

27.2 The Contractor, its employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of its operations under this contract shall observe the applicable law referred to in section 27.1 hereof and shall not engage in any transaction, directly or indirectly, prohibited by the applicable law.

27.3 Nothing contained in this contract shall be deemed an exemption from the necessity of applying for and obtaining any permit or authority that may be required for any activities under this contract.

Section 28
Interpretation

The division of this contract into sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

Section 29
Additional documents

Each party hereto agrees to execute and deliver all such further instruments, and to do and perform all such further acts and things as may be necessary or expedient to give effect to the provisions of this contract.

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LIST OF THE MAIN DOCUMENTS OF THE ASSEMBLY AND THE COUNCIL OF THE SIXTEENTH SESSION

Referenced documents in bold format appear in this publication

ASSEMBLY

ISBA/16/A/1	Agenda of the Assembly
ISBA/16/A/2	**Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea**
ISBA/16/A/3/Rev.1 ISBA/16/C/2/Rev.1	Proposed Budget for the International Seabed Authority for the Financial Period 2011-2012
ISBA/16/A/4	Election to fill vacancies on the Finance Committee in accordance with section 9 of the annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea. Note by the Secretary-General
ISBA/16/A/5* - ISBA/16/C/8*	**Report of the Finance Committee**
ISBA/16/A/6	Sensitization seminar entitled “Seabed: The New Frontier”, held in Madrid from 24 to 26 February 2010. Submitted by the delegation of Spain
ISBA/16/A/7	Credentials of representatives to the sixteenth session of the Assembly of the International Seabed Authority
ISBA/16/A/8	Decision of the Assembly relating to the credentials of representatives to the sixteenth session of the International Seabed Authority
ISBA/16/A/9	**Decision of the Assembly of the International Seabed Authority concerning the Staff Regulations of the Authority**
IISBA/16/A/10	**Decision of the Assembly of the International Seabed Authority relating to the budget of the Authority for the financial period 2011 to 2012**
ISBA/16/A/11	**Decision of the Assembly of the International Seabed Authority relating to the election to fill the vacancies on the Council of the Authority, in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea**
ISBA/16/A/12/ Rev. 1	**Decision of the Assembly of the International Seabed Authority relating to the regulations on prospecting and exploration for polymetallic sulphides in the Area**
ISBA/16/A/13	**Statement of the President of the Assembly of the International Seabed Authority on the work of the Assembly at its sixteenth session**
ISBA/16/A/INF.1	Request for observer status in accordance with rule 82, paragraph 1(e) of the Rules of Procedure of the Assembly on behalf of the International Cable Protection Committee
ISBA/16/A/INF.2	Request for observer status in accordance with rule 82, paragraph 1 (d) of the rules of procedure of the Assembly on behalf of the OSPAR Commission. Note by the Secretariat

ISBA/16/A/L.1/Rev.1	Provisional agenda of the Assembly
ISBA/16/A/L.2	Draft decision of the Assembly of the International Seabed Authority concerning the Staff Regulations of the Authority
ISBA/16/A/L.3	Draft Decision of the Assembly of the International Seabed Authority relating to the budget of the Authority for the financial period 2011 to 2012
ISBA/16/A/L.4	Draft decision of the Assembly of the International Seabed Authority relating to the election to fill the vacancies on the Council of the Authority, in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea
ISBA/16/A/L.5	Draft decision of the Assembly of the International Seabed Authority relating to the regulations on prospecting and exploration for polymetallic sulphides in the Area

COUNCIL

ISBA/16/C/1	Agenda of the Council
ISBA/16/C/3	**Considerations relating to the functioning of the Legal and Technical Commission. Note by the Secretary-General**
ISBA/16/C/4	**Amendments to the Staff Regulations of the International Seabed Authority**
ISBA/16/C/5	**Draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area**
ISBA/16/C/6	**Proposal to seek an advisory opinion from the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea on matters regarding sponsoring State responsibility and liability. Submitted by the delegation of Nauru**
ISBA/16/C/7	**Summary Report of the chairman of the Legal and Technical Commission on the Work of the Commission during the Sixteenth Session**
ISBA/16/C/9	**Decision of the Council of the International Seabed Authority concerning the Staff Regulations of the Authority**
ISBA/16/C/10	**Decision of the Council of the International Seabed Authority relating to the budget of the Authority for the financial period 2011-2012**
ISBA/16/C/12	**Decision of the Council relating to the regulations on prospecting and exploration for polymetallic sulphides in the Area**
ISBA/16/C/13	**Decision of the Council of the International Seabed Authority requesting an advisory opinion pursuant to Article 191 of the United Nations Convention on the Law of the Sea**
ISBA/16/C/14*	**Statement of the President of the Council of the International Seabed Authority on the work of the Council during the sixteenth session**
ISBA/16/C/L.1/Rev.1	Provisional Agenda of the Council

ISBA/16/C/L.2	Draft decision of the Council of the International Seabed Authority concerning the Staff Regulations of the Authority
ISBA/16/C/L.3	Draft decision of the Council of the International Seabed Authority relating to the budget of the Authority for the financial period 2011 to 2012
ISBA/16/C/L.4 and Rev. 1	Draft decision of the Council of the International Seabed Authority requesting an advisory opinion pursuant to Article 191 of the United Nations Convention on the Law of the Sea
ISBA/16/C/L.5	Draft regulations on prospecting and exploration for polymetallic sulphides in the Area
ISBA/16/C/L.6*	Draft decision of the Council relating to the regulations on prospecting and exploration for polymetallic sulphides in the area
ISBA/16/C/WP.1	**Review of outstanding issues with respect to the draft regulations on prospecting and exploration for polymetallic sulphides in the Area**
ISBA/16/C/WP.2	**Regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area**

CONSOLIDATED INDEX TO THE SELECTED DECISIONS AND DOCUMENTS OF THE INTERNATIONAL SEABED AUTHORITY

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 also the ISBA/FC (Finance Committee) and ISBA/LTC (Legal and Technical Commission) series.

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 can 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. These may be cited as, e.g. *Selected Decisions* 15, 1-25.

Indexes to the documents of the Authority are available in two formats; a consolidated subject index to the documents and a cumulative index which contains a complete list of documents of the Assembly and the Council from the first session (1994) to the fifteenth (2009). The documents and indexes are also available in electronic format on the Authority's website at www.isa.org.jm.

The consolidated index below indicates the reference in the appropriate volume of the Selected Decisions.

Title/Document number/Citation (*Selected Decisions*)

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