

29th Session of the International Seabed Authority – Assembly
Agenda Item 10: Periodic review of the international regime of the
Area pursuant to Article 154 of the Convention

STATEMENT BY AUSTRIA

(Ambassador Helmut Tuerk)

Mr. President,

the Austrian delegation was pleased to note that the Assembly at its twenty-eighth session decided to include the item „Periodic review of the international regime of the Area pursuant to Article 154 of the Convention in the agenda of the current session“. We fully agree with the view expressed in that decision of the Assembly „that a second periodic review under Article 154 would undoubtedly lead to further improvements in the operation of the regime and enhance the effectiveness of the Authority“. The highly positive effect of a periodic review has already been proven by the first such review concluded at the twenty-third session of the Assembly in 2017, when the final report of the Review Committee established to carry out that review was approved by consensus. A new impetus for the work of the Authority had thus been provided, which has also led to an intensified meeting schedule of its organs, including the Council, and the adoption of a strategic plan, which has in the meantime already been extended.

Mr. President,

the Austrian delegation wishes to express its appreciation to the Federal Republic of Germany for having taken the initiative regarding a further periodic review according to Article 154 of the Convention. Austria agrees with the draft decision now before the Assembly, contained in document ISBA/28/A/INF/8 which very carefully follows the precedent of the first review process. The same is true of the suggested terms of reference, which likewise follow the previous pattern and further provide for a review of the implementation of the recommendations of the previous periodic review, which seems undoubtedly necessary.

Mr. President,

as a former Chairman of the Review Committee established for the first Article 154 periodic review, let me make a few brief remarks, which include my personal experience, regarding the procedures that have been followed:

Let me point out that the Assembly, when deciding on that first periodic review at its twenty-first session to be carried out under the oversight of a review committee comprising the President and the Bureau of the Assembly and the President of the Council, had initially considered that such a process could be concluded after one year. In the course of the deliberations it became, however, clear that a period of two years would be required in order to allow the Review Committee to present a final report to the Assembly. This gave rise to the problem that these office holders would all be replaced at the following session of the Assembly, which would have meant that the final report would have to be drafted by a completely new team. It was therefore decided that the President of the Assembly at its twenty-first session would remain a member of the Committee until the completion of the review. In fact, he chaired it until the very end and also delivered its final report to the Assembly at its twenty-third session.

Furthermore, following the wish of regional groups it had been decided that the Chairs of these groups might also participate as observers in the Review Committee. As that body worked by consensus there was in practice no real difference between members and observers. I wish to emphasize that this inclusion of additional participants in the Review Committee proved to be highly positive for accomplishing its tasks and greatly facilitated the approval of the Committee's final report by consensus. Let me add that personal participation in the meetings of a review committee in Kingston seems indispensable for a successful conclusion of its work. The experience with some members participating only virtually has shown that, although these were highly qualified, they were not really able to make very substantial contributions.

Regarding the procedure to be followed, the Assembly had further decided that the review was to be conducted by independent consultants appointed by the Committee, based on a short list of qualified persons prepared by the Secretary-General of the Authority according to the established procurement procedures. Following the full evaluation of sealed bid tenders

the contract for the conduct of the review was awarded to Seascope Consultants Limited, which was entrusted with preparing an interim report. That report was drawn up on the basis of questionnaires sent out to States Parties, observers and stakeholders. It was then reviewed by the Committee and also commented upon by the secretariat, the LTC and the Finance Committee. A revised interim report was subsequently presented of which the Assembly took note as well as of all the comments received. It then decided to provide States Parties, observers and stakeholders a further opportunity to submit written observations.

Let me recall that overall the Review Committee considered that the revised interim report provided a useful basis for its discussions. Certain gaps were largely filled in by the Secretary-General by his comments. In my view, the work performed by the consultants in the course of the review process proved to be a highly valuable basis for the deliberations of the Committee, although a number of their suggestions also met with some criticism and were not pursued as they were quite far removed from the practices developed by the Authority over the years and were unlikely to be accepted by consensus. Other suggestions were not taken up as they were considered premature at that stage of evolution of the Authority, although they might be borne in mind in the future. In this context it should be mentioned that the opinion was also expressed within the Committee that, in light of the experience gained during the review and the budgetary implications, that there might in future be no more need to appoint outside consultants. Nevertheless, in my view, the Assembly should not depart from the previous already well established procedure. It is always good to get some fresh wind from outside even if one does not agree with some of the proposals that are being made.

It should also be highlighted that the Review Committee, in drafting its final recommendations, was guided by the principle of not in any way going beyond the limits set by the Convention and related instruments. The Committee had also hoped for a higher response rate to the questionnaire that had been transmitted by Seascope to all groups of stakeholders involved with the Authority. The relatively low number of responses made it more difficult to evaluate how much support a recommendation contained in the revised interim report actually enjoyed, in particular as regards support by members of the Authority. This was a matter of concern for the Committee, which in its view would need to be addressed prior to engaging in the next Article 154 periodic review.

Mr. President,

to this brief outline of the procedure followed in the course of the first periodic review let me further stress that the assistance provided by the respective Secretaries-General and highly dedicated members of the staff of the Authority provided indispensable support for the Review Committee in accomplishing its task. It should thus be borne in mind that a further review process will once again place quite an additional burden not only on the members and observers of the Review Committee, who may have to travel to Kingston for intersessional meetings, but in particular also on the Secretariat. The question might therefore be asked whether in view of the intense schedule of meetings of the Authority foreseen at least until 2025 it might not be wiser to engage in a second review process only next year. As far as the Austrian delegation is concerned, we would, of course, be ready to join a consensus to commence a second Article 154 periodic review already at the present session of the Assembly, if this was so desired.

Thank you, Mr. President.