

Decision of the Assembly of the International Seabed Authority on the establishment and development of a general policy of the Authority for the protection and preservation of the marine environment

The Assembly of the International Seabed Authority,

~~Recalling that pursuant to Article 192 of the United Nations Convention on the Law of the Sea of 10 December 1982 (Convention) States have the obligation to protect and preserve the marine environment, including from any form of degradation of the marine environment and under stringent due diligence standard,¹~~

Recalling that Article 145 of Convention set the obligation to take necessary measures to ensure effective protection for the marine environment from harmful effects that may arise from activities in the Area,

Recalling ~~further~~ that pursuant to Article 160 of the Convention, the Assembly shall have the power to establish general policies in conformity with the relevant provisions of the Convention on any question or matter within the competence of the Authority.

Mindful that under paragraph 1 of Section 3 of the Annex to the 1994 Agreement of Part XI the general policies of the Authority shall be established by the Assembly in collaboration with the Council,

Noting that pursuant to Article 2 of the 1994 Agreement, in the event of any inconsistency between the Agreement and the Convention, the provision of the Agreement shall prevail.

~~Recalling decisions of the Council of the Authority ISBA/28/C/24 and ISBA/28/C/25 which expressed that the commercial exploitation of mineral resources in the Area should not be carried out in the absence of rules, regulations and procedures relating to exploitation~~
Recalling decisions of the Council of the Authority ISBA/28/C/24 and ISBA/28/C/25 which expressed that the commercial exploitation of mineral resources in the Area should not be carried out in the absence of rules, regulations and procedures relating to exploitation, and that the Council intends to continue the elaboration of rules, regulations and procedures relating to exploitation with a view to their adoption during the thirtieth session of the Authority, to adopt the rules, regulations and procedures related to exploitation during the thirtieth session of the Authority.

Bearing in mind the constructive discussions of the international workshop co-hosted by the Secretariat of the Authority in 2017 in Berlin on the development of a long-term Environmental Management Strategy for the Area, as captured in ISA Technical Study No. 47,

¹ Request for an Advisory Opinion submitted by the Commission of Small Island States on climate change and international law, Advisory Opinion, 21 May 2024, at pp.128-129, para. 385.

~~Recognizing the need for a general policy for the protection and preservation of the marine environment to be developed, agreed and adopted before any plan of work for exploitation is approved.~~

~~Understanding the need for further discussion on the possible elements that could comprise such a general policy in order to hear the perspectives and proposals from members of the Authority and observers with a view to identifying areas of general agreement.~~

~~Desiring to continue the work on this matter intersessionally in a constructive manner,~~

~~1. Decides that the Assembly, in collaboration with the Council, shall advance the elaboration of a General Policy of the Authority related to the protection and preservation of the marine environment from harmful effects of activities in the Area;~~

~~21. Also ~~d~~ Decides to establish, without prejudice to and without setting a precedent for the application of Art 160 and 162 of UNCLOS, Art 162 of UNCLOS, Art 2 of the 1994 Agreement, para 1 Section 3 of the Annex to the 1994 Agreement, and Rules 61.3 of the Rules of Procedure of the Assembly, an informal intersessional -dialogue to facilitate further discussion on the following topics:~~

~~the elements that need to be included in a general policy of the Authority for the protection and preservation of the marine environment from the harmful effects of activities in the Area;~~

~~a) Appropriate Whether a general policy of the Authority for the protection and preservation of the marine environment is necessary;~~

~~b) The procedure for establishing such policy~~

~~bc) The potential scope, process and application of any such policy-general policy for the protection and preservation of the marine environment;~~

~~d) The elements that need to mayight be included in the for the protection and preservation of the marine environment-any such policy; and-~~

~~d) The procedure for establishing such policy, if any.~~

~~23. Additionally, decides on the following modalities of the intersessional dialogue:~~

a) The informal intersessional dialogue shall be open to all members of the Authority, including members of the Council, as well as members of the LTC Commission, the Interim Director-General of the Enterprise, and observers ~~observers and interested stakeholders.;~~

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b) The informal intersessional dialogue shall be co-facilitated by Jeroen Gutter from the Kingdom of the Netherlands and Beatrice Chen from Singapore; and

c) The informal intersessional dialogue shall be convened regularly between the date of adoption of the present decision and the next second part of the Council meeting of the Assembly, in July 2025, using virtual means, starting in [•];

~~e)~~

34. Further decides that the Co-Facilitators of the above mentioned dialogue shall:

~~a) Prepare and present a briefing note report, including a summary of the discussion and conclusions, to the Council at the first second part of its 30th Session for its consideration; and~~

~~b) Prepare and present a report of the discussions to the Assembly, including a draft proposal of a possible General Policy to the Assembly, if any, for its consideration at its next meeting, in July 2025 with a view for adoption.~~

54. Requests the Secretariat to provide all necessary administrative and technical support as may be required by the Co-Facilitators.

5. Also requests the LTC encourages members of the Commission to participate in the dialogue.

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