



**International Seabed Authority's Contribution to the United Nations Secretary-General's  
Report pursuant to the United Nations General Assembly's Resolution A/RES/69/245  
(11 February 2015)**

**EXECUTIVE SUMMARY**

The International Seabed Authority is now embarking on a major and historical exercise of formulating a regulatory framework to administer and regulate the conduct of exploitation of resources in the Area. This marks yet another significant milestone in its evolution towards the effective discharge of its mandate and responsibilities at the various stages of the development of activities in the Area.

Mandated by the Convention to *inter alia* promote the carrying out activities in the Area ‘*in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international cooperation for the overall development of all countries, especially developing states*<sup>1</sup> and to “*adopt rules, regulations and procedures that ensures effective protection of the marine environment from harmful effects which may arise from such activities*”<sup>2</sup>, the Authority has, during the 20 years of its existence, demonstrated commendable progress. It has cemented its place as the central authority for the organization and control of activities in the Area. It has adopted and implemented three sets of regulations for exploration for, respectively, polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts, and has entered into contracts for exploration for all three resources.

As at 11 February 2015, a total of 20 (twenty) - 15 (fifteen) year term contracts for exploration have been signed between the Authority and its contractors (14 for exploration for polymetallic nodules, 4 for exploration for polymetallic sulphides and 2 for exploration for cobalt-rich ferromanganese crusts)<sup>3</sup>. With 7 of these contracts coming to an end in 2016 and 2017<sup>4</sup>, the focus of the Authority is now shifting to the development of urgently needed rules, regulations and procedures relating to exploitation of resources in the Area and the protection of the marine environment. A new phase in the life of the Authority is steadily approaching. This new phase involves the reality of deep seabed mining and the prescribed role of the Authority in organizing and monitoring such activities where they pertain to the Area.

For further Information regarding the relevant activities of the International Seabed Authority in fostering integration of the three dimensions of sustainable development with regard to oceans, please see the full version of the Authority's submission at: (website).

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<sup>1</sup> UNCLOS, Article 150

<sup>2</sup> UNCLOS, Article 145

<sup>3</sup> ISBA/21/LTC/8, paragraph. 2

<sup>4</sup> Ibid. Annex. 1



**International Seabed Authority's Contribution to the United Nations Secretary-General's Report pursuant to the United Nations General Assembly's Resolution A/RES/69/245 (11 February 2015)**

**Part 1 "Oceans and sustainable development: integration of the three dimensions of sustainable development, namely, environmental, social and economic"**

**(i) Information regarding the relevant activities of the International Seabed Authority in fostering integration of the three dimensions of sustainable development with regard to oceans.**

1. The International Seabed Authority (the Authority), the organisation through which States Parties organise and control activities in the Area<sup>5</sup> is currently embarking on a major and historical exercise of formulating a regulatory framework to administer and regulate the conduct of exploitation of resources in the Area<sup>6</sup>. This development is yet another significant milestone in the Authority's evolutionary approach<sup>7</sup> towards the effective discharge of its mandate and responsibilities at the various stages of the development of activities in the Area. The inspiration behind the international regime for the Area established in Part XI of the Convention and the 1994 Agreement<sup>8</sup> is to promote fair and equitable access to deep seabed resources<sup>9</sup>.

2. One of the principal objectives of the Authority is to promote the carrying out activities in the Area 'in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international cooperation for the overall development of all countries, especially developing states<sup>10</sup>. Another equally important mandate entrusted to the Authority by the Convention in respect to activities in the Area, is to adopt rules, regulations and procedures that ensures effective protection of the marine environment from harmful effects which may arise from such activities<sup>11</sup>.

3. The protection of human life,<sup>12</sup> prevention of pollution from activities in the Area<sup>13</sup>, the equitable sharing of financial and other economic benefits derived from activities in the Area<sup>14</sup> and the promotion and encouragement of the conduct of marine scientific research concerning the Area and its resources as

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<sup>5</sup> UNCLOS, Article 157(1)

<sup>6</sup> See: ISBA/21/C/21 para.20 –following a statement made by the representative of Fiji (ISBA/17/C/22), supported by other delegations, requesting the Council to take up the formulation of the regulations for mining of deep-sea minerals in the Area.

<sup>7</sup> AGXI/A/S1(3)

<sup>8</sup> AGXI/A/S1(1)

<sup>9</sup> UNCLOS, Article 137. See also: UNCLOS, Article 140 &

<sup>10</sup> UNCLOS, Article 150

<sup>11</sup> UNCLOS, Article 145

<sup>12</sup> UNCLOS, Article 146

<sup>13</sup> UNCLOS, Article 209 & 215

<sup>14</sup> UNCLOS, Article 140(2)

well as the coordination of such research and the dissemination of its results<sup>15</sup> are but a few more of those fundamental responsibilities bestowed upon the Authority by the Convention. In addition, the Convention also tasked the Authority with the responsibility of taking measures to acquire technology and scientific knowledge relating to seabed mining and to promote, encourage and facilitate its transfer to developing countries<sup>16</sup> and to promote the effective participation of developing countries in activities in the Area including taking due regards of the special interests of the landlocked and geographically disadvantaged to overcome obstacles arising from their disadvantaged location, including remoteness from the area and difficulties of access to and from it.<sup>17</sup>

4. Highlighted above is an outline of the extensive legislative competence granted to the Authority under part XI and annex III of the Convention with a view to achieving both the optimal utilization of seabed mineral resources as well as their conservation. The Convention gives the Authority not only broad legislative competence, but also empowers it to monitor compliance with its rules, regulations, and procedures<sup>18</sup>, and to deal with noncompliance with its rules and decisions.<sup>19</sup> While such powers are appropriate, if not necessary, for the promotion of sustainable development of the resources in the Area, it was the result of an uncharacteristic attempt by States to adopt a precautionary approach and ensure rational and equitable utilization of the resources of the seabed as the Common Heritage of Mankind through regulating the mining industry before the need for regulation had been generally recognized. The international regime under Part XI was thus ahead of its time.

5. The design of the organisational structure of the Authority as envisaged by the Convention clearly anticipates the important role the institution will play in the sustainable development of the resources in the area as well as all exploration and exploitation activities therein, promote the transfer of scientific knowledge and technology associated with seabed mining, and ensure to a feasible extent the equitable distribution of the costs and benefits of activity in the area as "common heritage of mankind". The Authority has a fundamental 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.

6. During the 20 years of its existence, in accordance with the 1994 Agreement, an evolutionary approach has been taken to the establishment of the Authority. Thus, pending the approval of the first plan of work for exploitation, the Authority has concentrated its programme of work on the areas of work listed in paragraph 5 of section 1 of the annex to the 1994 Agreement. These include the supervision of contracts for exploration<sup>20</sup> and the progressive development of regulatory measures for future activities in

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<sup>15</sup> UNCLOS, Article 143 & 256

<sup>16</sup> UNCLOS, Article 144, 273 & 274. See also: AGXI/A/S5

<sup>17</sup> UNCLOS, Article 148.

<sup>18</sup> UNCLOS, Article 153(4) & (5). See also: Article 162(2)(1)

<sup>19</sup> UNCLOS, Article 162(2) (t) (y) & (w). See also A3/18 & A4/S4

<sup>20</sup> AGXI/A/S1(5)(c)

the Area, especially those relating to protection of the marine environment<sup>21</sup>. In view of the limited resources available to the Authority, the relative priority given to each of these areas of work has until now been entirely dependent on the pace of development of commercial interest in deep seabed mining.

7. As at 28 January 2015, 20 contracts for exploration had entered into force (14 for exploration for polymetallic nodules, 4 for exploration for polymetallic sulphides and 2 for exploration for cobalt-rich ferromanganese crusts)<sup>22</sup>. With 7 of the 20 current 15 year term contracts for exploration coming to an end in 2016 and 2017<sup>23</sup>, the focus of the Authority is shifting to the development of urgently needed rules, regulations and procedures relating to exploitation of resources in the Area and the protection of the marine environment. This is encouraging for the Authority as an institution and for member States, who will be the ultimate beneficiaries from seabed mining in the future. However, it also means that the Authority is under increased pressure to develop fair and equitable policies and regulations for the exploitation of marine minerals, as well as to deliver an appropriate level of environmental protection for the Area. The Authority continues to effectively supervise and administer exploration contracts, continues to progress the development of rules, regulations and procedures for the conduct of activities in the Area, including regulations for exploitation of seabed minerals, and continue the baseline environmental work necessary to carry out and evaluate environmental impact assessments of deep seabed mining.

8. Some examples of the relevant activities of the International Seabed Authority in fostering integration of the three dimensions of sustainable development with regard to its mandate under the Convention and the Agreement can be summarised as follows:

Srl.	Mandate	Activities
<b>Economic Dimension</b>		
1.	Promote the carrying out of activities in the Area 'in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international cooperation for the overall development of all countries, especially developing states. (UNCLOS Art.150)	<ul style="list-style-type: none"> <li>• Seabed mining has not yet commenced on a commercial scale, although in recent years there has been greatly accelerated interest in the potential for marine minerals both within and beyond national jurisdiction</li> <li>• To date, the Authority has adopted Regulations on Prospecting and Exploration for Polymetallic Nodules<sup>24</sup>, Polymetallic Sulphides<sup>25</sup>, and Cobalt-Rich Crusts<sup>26</sup>. It is these regulations that collectively form the core component of the legal regime for deep seabed mining, supplementing the provisions of the Convention. They are informally referred to as the Deep Seabed Mining Code.</li> <li>• With the commencement of work on the formulation of the exploitation regulations now underway, it is envisaged that the obligation to foster healthy development will be taken into account.</li> </ul>
2.	Promote the effective participation of developing countries in activities in the Area including taking due regards of the special interests of the landlocked and geographically disadvantaged to overcome obstacles arising from their disadvantaged location, including remoteness from	<ul style="list-style-type: none"> <li>• Whilst awaiting exploitation, the Authority during the 20 years of its existence has conducted a number of seminars and outreach in different regions of the world aimed at informing members including landlocked and geographically disadvantaged countries, of the training and other capacity building activities available to developing countries from the Authority.</li> <li>• In 2002 the Authority's Voluntary Trust Fund for the participation of members of the Finance Committee and the Legal and Technical Commission from developing countries was established. The fund is made up of voluntary</li> </ul>

<sup>21</sup> AGXI/A/S1(5)(g)

<sup>22</sup> ISBA/21/LTC/8, paragraph. 2

<sup>23</sup> Ibid. Annex. 1

<sup>24</sup> Document ISBA/6/A/18, 13 July 2000. See also: Document ISBA/19/A/9, 25 July 2013 and ISBA/20/A/9, 24 July 2014.

<sup>25</sup> Document ISBA/16/A/12/Rev.1, 7 May 2010. See also Document ISBA/20/A/10, 24 July 2014.

<sup>26</sup> Document ISBA/18/A/11, 27 July 2012.

	the area and difficulties of access to and from it. (UNCLOS, Art. 148)	contributions from members of the Authority and others and has been used since to assist developing countries committee and commission members' participation. <ul style="list-style-type: none"> <li>•The Authority's Endowment Fund for Marine Scientific Research in the Area was established in 2006. The Fund aims to promote and encourage the conduct of marine scientific research in the Area for the benefit of humankind 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. Members of the Authority, other States, relevant international organizations, academic, scientific and technical institutions, philanthropic organizations and private persons may make contributions to the Fund.</li> </ul>
3.	Provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through appropriate mechanism, on a non-discriminatory basis. (UNCLOS, Art. 140)	<ul style="list-style-type: none"> <li>•The drafting of the Authority's Exploitation regulation that is currently underway is expected to devise the appropriate mechanism for the non-discriminatory and equitable sharing of financial and other economic benefits derived from activities in the Area</li> <li>•The Authority regards this exercise with utmost gravity as it will require careful balancing of the economic, social and environmental dimensions to exploitation of the mineral resources of the Area.</li> </ul>
<b>Environmental Dimension</b>		
4.	Adopt rules, regulations and procedures that ensure effective protection of the marine environment from harmful effects which may arise from such activities. (UNCLOS, Art. 145)	<ul style="list-style-type: none"> <li>• Adoption of rules, regulations and procedures for the protection of marine environment is one of the priority areas of the Authority identified by the Part XI Agreement. The Authority is required to balance competing objectives of economic development and environmental protection and is also guided by the goal of sustainable development captured in Principle 4 of the Rio Declaration<sup>27</sup>.</li> <li>• Environmental concerns are also at the core of the obligations of contractors undertaking exploration activities. Each set of the Authority's current regulations contains an entire part dedicated to the protection and preservation of the marine environment.</li> <li>• Once a contract has been approved, contractors have an obligation to 'take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from activities in the Area, as far as reasonably possible<sup>28</sup>. For this purpose, contractors are required to apply the 'best environmental practices'<sup>29</sup>. This requirement sets out a minimum standard against which the actions of contractors can be judged. Contractors are also under an obligation to continuously monitor the effect of their activities on the marine environment.<sup>30</sup> To this end, contractors are expected to gather environmental baseline data against which to assess the likely effects of its activities<sup>31</sup>. Establishment of preservation reference zones may be used for this purpose<sup>32</sup>.</li> <li>• The Legal and Technical Commission has provided guidance for the assessment of possible environmental impacts arising from the exploration of marine minerals in the Area<sup>33</sup>.</li> </ul>
5.	Establish and enforce international rules to prevent and control pollution of the Marine environment from activities in the Area. (UNCLOS Art.	<ul style="list-style-type: none"> <li>• The Authority's Regulations also contain rules relating to pollution emergencies that threaten to significantly harm the marine environment<sup>34</sup>. All contractors must submit a contingency plan to the Secretary-General stating what measures will be taken in the event of an environmental emergency<sup>35</sup>.</li> </ul>

<sup>27</sup> "In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it."

<sup>28</sup> Crusts Regulations, Reg. 33(5)

<sup>29</sup> Ibid

<sup>30</sup> Ibid, Reg. 33(6)

<sup>31</sup> Ibid, Reg. 34(1)

<sup>32</sup> Ibid n. 21 "areas in which no mining shall occur to ensure representative and stable biota of the seabed"

<sup>33</sup> "Recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area" see also: Document ISBA/19/LTC/8

<sup>34</sup> UNCLOS, Art. 162(w)

<sup>35</sup> Standard Clauses Section 6.1 see: ISBA/16/A/12/Rev 1.

	209 & 215)	<ul style="list-style-type: none"> <li>• If a contractor, through its activities in the Area, causes or is likely to cause serious harm to the marine environment, it must immediately warn other contractors and shipping operating in the vicinity<sup>36</sup>. In addition, the contractor must notify the Secretary-General of the incident. The notification must include the coordinates of the area affected, a description of any action being taken by the contractor to prevent, contain or minimize any harm to the marine environment, and any supplementary information reasonably requested by the Secretary-General<sup>37</sup>. In turn, the Secretary-General must notify the Legal and Technical Commission and the Council. The Council may issue emergency orders as may reasonably be thought necessary to prevent, contain and minimize serious harm to the marine environment.</li> </ul>
6.	Exercise control over activities in the Area as necessary for the purpose of securing compliance with the relevant provisions of the Convention and the rules, regulations and procedures of the Authority and the approved Plans of Work. (UNCLOS Art. 153(4))	<ul style="list-style-type: none"> <li>• The Council of the Authority <i>inter alia</i> is empowered to issue emergency orders for the suspension or adjustment of operation necessary to prevent, contain and minimise serious harm to marine environment arising from activities in the Area.<sup>38</sup></li> <li>• Standard Clauses obliged Contractors to comply with these orders and to immediately suspend or adjust activities<sup>39</sup>.</li> </ul>
7.	Exercise the right to take any measures to ensure compliance with the provisions of the Convention and any contracts and the right to inspect any installation in the Area used in connection with activities in the Area. (UNCLOS, Art. 153(5))	<ul style="list-style-type: none"> <li>• In addition to the abovementioned environmental commitments, activities of the Authority, sponsoring states and contractors is also be guided by the so-called precautionary approach reflective of Principle 15 of the Rio declaration<sup>40</sup>.</li> <li>• The Secretary-General of the Authority is allowed to take immediate measures to prevent, contain or minimize the harm<sup>41</sup>. This innovation prevents any potential delay in responding to an environmental emergency. As a safeguard, any measures taken by the Secretary-General are provisional and they will be effective for no longer than ninety days or until the Council has decided what measures it wishes to impose, whichever is shorter. Permanent measures should be adopted by the Council, taking into account the recommendations of the Legal and Technical Commission<sup>42</sup>. The contractor must reimburse the Authority for any expenses incurred in taking measures to respond to a pollution emergency<sup>43</sup>. This provision thus implements the so-called 'polluter pays' principle.</li> </ul>
<b>Social Dimension</b>		
8.	Promote and encourage the conduct of marine scientific research and may enter into contracts for that purpose concerning the Area and its resources as well as the coordination of such research and the dissemination of its results. (UNCLOS, Art. 143(2) & Art. 256)	<ul style="list-style-type: none"> <li>• As of 31 December 2014, a total of 66 scientists or Government officials from developing countries have been beneficiaries of financial support from the ISA Endowment Fund. The recipients are from Argentina, Bangladesh, Bolivia, Brazil, Cameroon, China, Colombia, Cook Islands, Costa Rica, Egypt, Fiji, Guyana, India, Indonesia, Jamaica, Madagascar, Malaysia, Maldives, Malta, Mauritania, Mauritius, Namibia, Micronesia, Nigeria, Palau, Papua New Guinea, Peru, the Philippines, the Russian Federation, Sierra Leone, South Africa, Sri Lanka, Suriname, Thailand, Tonga, Trinidad and Tobago, Tunisia and Viet Nam.</li> </ul>
9.	Take measures to acquire technology and scientific knowledge relating to seabed mining and to promote, encourage and facilitate its transfer to developing countries. (UNCLOS, Article 144, 273 & 274. See also: AGXI/A/S5)	<ul style="list-style-type: none"> <li>• The transfer of technology was a controversial issue in the negotiation of the Convention. The original provisions of the Convention have been substantially modified by the 1994 Agreement and the original obligation of contractors to make technology available on 'fair and reasonable commercial terms and conditions whenever the Authority so requests'<sup>44</sup> was substituted by a more general duty to 'cooperate in facilitating the acquisition of deep seabed mining</li> </ul>

<sup>36</sup> Ibid. Section 6.1(c)

<sup>37</sup> Ibid. N. 27 See also: Sulphide Regulation Reg. 35, & Standard Clauses Section 6.2

<sup>38</sup> Ibid

<sup>39</sup> Ibid

<sup>40</sup> Crusts Regulations, Reg. 33(2) and (5); Sulphides Regulations, Reg. 33(2) and (5). Such a provision was not initially included in the Nodules Regulations, but it has since been added by way of amendments adopted in 2013; Nodules Regulations, Reg. 31(2) and (5).

<sup>41</sup> Nodules Regulations, Reg. 33(3).

<sup>42</sup> Ibid

<sup>43</sup> Standard Clauses, Section 6.4

<sup>44</sup> UNCLOS, Annex III, Article 5(3) (a). See also: Part XI Agreement, Annex, Section 5, para. 2.

		<p>technology consistent with the effective protection of intellectual property rights<sup>45</sup>.</p> <ul style="list-style-type: none"> <li>• In 2014, the Secretary-General of the Authority was invited to visit the manufacturing plant of what is envisaged to be the first seabed mining tool.</li> </ul>
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**(ii) challenges and opportunities in integrating the three dimensions of sustainable development in that regard, including matters which may require further consideration with a view to fostering integration of the three dimensions of sustainable development with regard to oceans, with an emphasis on areas where coordination and cooperation at the intergovernmental and inter-agency levels could be enhanced.**

9. One of the major challenges confronting the Authority as it embark on formulating its Exploitation Regulations is the need to find ways to achieve balance between the desire for economic development and the need for environmental protection. Designing a regime for the exploitation of marine minerals in the International Seabed Area clearly has the potential to be most destructive. It is therefore vitally important to the Authority that careful thought is given towards this in the initial elaboration of the mining regime. Dialogue, exchanges of views and information on best practices and cooperation with member States, intergovernmental and inter-agency partners and all stakeholders at all level will therefore be necessary.

10. A further challenge is the need to increase understanding of the oceans, especially of the deep seabed of the Area. Contractors reporting obligations contribute to the reservoir of information held at the Authority, however, outcomes and findings of simultaneous researches and studies occurring elsewhere, for instance, in the oil and gas industry, would assist in further enhancing this understanding. After all, the Authority can only achieve a truly precautionary approach to deep seabed mining if it is able to respond in an effective manner to new and latest information including developments in science and technology.

11. Another challenge for the Authority is to ensure an ecosystems approach to the protection of the marine environment. Clearly other activities, aside from mining, can affect deep seabed ecosystems and it is therefore necessary to adopt an approach that can consider the cumulative impacts on the marine environment. As the Authority is only competent to regulate activities in the Area, such an approach will necessitate cooperation with other relevant international organizations. This is an emerging issue on the international agenda<sup>46</sup> and one that merits the attention of the international community as it seeks to make progress towards a truly sustainable approach to oceans management.

END

<sup>45</sup> Part XI Agreement, Annex, Section 5, para. 1.

<sup>46</sup> It is one of the issues being discussed by the UN Ad Hoc Opened-Ended Informal Working Group on Sustainable Development in Areas Beyond National Jurisdiction.