

### (iii) Secretariat Study : Law Of The Sea

#### Consideration in the General Assembly

The item "Law of the Sea" has been on the agenda of the General Assembly since its 37<sup>th</sup> session (1982) when the General Assembly, *inter alia* approved the assumption, by the Secretary General, of the responsibilities entrusted to him under the UN Convention on the Law of the Sea, 1982 and the related resolution adopted by UNCLOS and has thereafter been considered at successive sessions. In the course of consideration of the item at its 50<sup>th</sup> Session the General Assembly *inter alia* emphasized the universal character of the United Nations Convention on the Law of the Sea 1982.\*

By its resolution 51/34 the General Assembly called upon all States that had already not done so to become parties to the Convention and to ratify, conforntn formally or accede to the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, 1994 (hereinafter referred to as the 1994 Agreement) in order to achieve the goal of universal participation. The General Assembly while reaffirming the unified character of the Convention called upon all States to

\* As of December 1997, 123 States had ratified, acceded or succeeded to the Convention. These States are : Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cameroon, Cape Verde, Chile, China, Comoros, Cook Islands, Costa Rica, Cote d' Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Equatorial Guinea, Fiji, Finland, France, Gambia, Guatemala, Georgia, Germany, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Korea, Republic of Kuwait, Lebanon, Macedonia (former Yugoslav Republic of), Malaysia, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Mozambique, Myanmar, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Philippines, Portugal, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Togo, Tonga, Trinidad and Tobago, Tunisia, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Vietnam, Yemen, Yugoslavia, Zambia and Zimbabwe.

harmonize their national legislation with the provisions of the Convention and to ensure consistent application of those provisions. At its 51<sup>st</sup> Session the General Assembly also called upon States to ensure that any declarations or statements that they had made or make when signing, ratifying or acceding are in conformity with the Convention.<sup>1</sup> It 'reaffirmed its decision to continue to undertake an annual consideration and review of the overall developments pertaining to the implementation of the Convention and other developments relating to the Law of the Sea and Ocean Affairs.

The provisions of the Convention have, since its adoption, been developed, in two implementing agreements viz.

- (a) The Agreement Relating to the Implementation of Part XI of the Convention adopted in 1994; and
- (b) The Agreement for the Implementation of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted in 1995.

#### (a) **The Agreement Relating to the Implementation of Part XI of the Convention) adopted in 1994;**

The Agreement Relating to the Implementation of Part XI of the Convention (hereinafter called the 1994 Agreement) was adopted by General Assembly Resolution 48/263 on July 28, 1994 and was open for signature until July 28, 1995. It has since been signed by 78 States<sup>2</sup>

<sup>1</sup> See Law of the Sea A/51/L. 21, 19 November 1996.

<sup>2</sup> The States signatories to the agreement are : Algeria, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Brazil, Burkina faso, Cameroon, Canada, Cape Verde, China, Coted'Ivoire, Cyprus, Czech Republic, Denmark, Egypt, Fiji, Finland, France, Gabon, Germany, Greece, Grenada, Guinea, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Lao People's Democratic Republic, Luxembourg, Malaysia, Maldives, Malta, Mauritania, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Namibia, Netherlands, New Zealand, Nigeria, Pakistan, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Samoa, Senegal, Seychelles, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Yugoslavia, Zambia and Zimbabwe.



and one international organization.<sup>3</sup> The Agreement entered into force on 28 July 1996<sup>4</sup> The General Assembly, at its 51<sup>st</sup> Session called upon States not done so to become parties to the 1994 Agreement.<sup>5</sup>

The Secretary General of the United Nations, Mr. Kofi Annan has said that "the entry into force of the United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the Convention has led the United Nations to redesign its programme of information, advice and assistance in the field."<sup>6</sup>

<sup>3</sup> European Community.

<sup>4</sup> As of March 31, 1997 the 78 States that had consented to be bound by the Agreement are Algeria, Argentina, Australia, Austria, Bahamas, Barbados, Belize, Bolivia, Brunei Darussalam, Bulgaria, China, Cook Islands, Cote d'Ivoire, Croatia, Cyprus, Czech Republic, Fiji, Finland, France, Georgia, Germany, Greece, Grenada, Guatemala, Guinea, Haiti, Iceland, India, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Lebanon, Malaysia, Malta, Mauritania, Mauritius, Micronesia (Federated States of), Monaco, Mongolia, Mozambique, Myanmar, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Paraguay, Republic of Korea, Romania, Russian Federation, Samoa, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Sri Lanka, Sweden, the former Yugoslav Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Uganda, Yugoslavia, Zambia and Zimbabwe. Be that as it may, pending its entry into force the Agreement was, in accordance with paragraph 1 of Article 7, being provisionally applied by 126 States. For these States their consent to be bound by the Agreement is subject to ratification.

<sup>5</sup> The Agreement is to be interpreted and applied together with the Convention as a single instrument. In the event of any inconsistency between the Agreement and Part XI of the Convention, the provisions of the Agreement are to prevail. After the adoption of the Agreement, any ratification or accession to the Convention represents also consent to be bound by the Agreement, and no State or entity can establish its consent to be bound by the Agreement unless it has previously established or establishes, at the same time, its consent to be bound by that Convention. States that were parties to the Convention prior to the adoption of the Agreement are now required to establish their consent to be bound by the Agreement, separately, by depositing an instrument of ratification or accession. For a detailed account of the 1994 Agreement See AALCC/XXXIV/Doha/95/5. Reprinted in the *Asian African Legal Consultative Committee: Report and Selected Documents of the Thirty Fourth Session, Doha, Qatar*.

<sup>6</sup> Kofi A. Annan: *Renewal and Transition: Annual Report on the Work of the Organization, 1997* (United Nations, New York 1997) para 146 page 59.

(b) **The Agreement for the Implementation of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted in 1995.**

The Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea, 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Species was adopted on August 4, 1995 by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.<sup>7</sup> That Conference also adopted two resolutions.<sup>8</sup>

The Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks has been signed by 58 States including 11 Member States of the AALCC and one international organization<sup>9</sup> and will enter into force 30 days after it has been ratified by 30

<sup>7</sup> See A/Conf.164/33.

<sup>8</sup> Resolution 1 underscored the significance of early and effective implementation of the Agreement and inter alia called upon States and other entities to apply the Agreement provisionally. Resolution 11 adopted by the UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, inter alia, recognizing the significance of periodic consideration and review of developments relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks recommended to the General Assembly that it review developments relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, on the basis of a report to be submitted by the Secretary-General at the second session following the adoption of the Agreement and biennially thereafter. See the *Final Act of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks A/CONF.164/38*.

<sup>9</sup> As of October 15 1997 the 58 States signatory to the UN Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks are: Argentina, Australia, Austria, Bangladesh, Belgium, Belize, Brazil, Burkina Faso, Canada, China, Cote d'Ivoire, Denmark, Egypt, Fiji, Finland, France, Gabon, Germany, Greece, Guinea Bissau, Iceland, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Luxembourg, Maldives, Marshall Islands, Mauritania, Micronesia (Federated States of), Morocco, Namibia Netherlands, New Zealand, Nine, Norway, Pakistan, Papua New Guinea, Philippines, Portugal, Republic of Korea, Russian Federation, Saint Lucia, Samoa, Senegal, Seychelles, Spain, Sri Lanka, Sweden, Switzerland Tonga, Uganda, Ukraine, United Kingdom the United States of America and Vanuatu. In addition it has been signed by the European Union.



signatory States<sup>10</sup> The Agreement is a separate instrument and greatly elaborates upon the general provisions of the Convention on the Law of the Sea. It is to be interpreted and applied in a manner consistent with that Convention. There is no link or nexus between this Agreement and the Convention in establishing a consent to be bound by these two instruments.

The Assembly at its 51st Session had *inter alia*, emphasized the importance of the early entry into force<sup>11</sup> and effective implementation of the 1995 Agreement and called upon all States and other entities referred to in article 1 paragraph 2(b) of the Agreement to sign and ratify or accede to it and to consider applying it provisionally. It also decided to include under the item "Oceans and Law of the Sea a sub-item entitled "Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks"<sup>12</sup>

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<sup>10</sup> The Agreement has been ratified or acceded to by 15 States viz. Bahamas, Fiji, Iceland, Mauritius, Micronesia, Nauru, Norway, Russian Federation, Saint Lucia, Samoa, Senegal, Solomon Islands, Sri Lanka, Tonga and the United States of America.

<sup>11</sup> Although, many states were expected to apply the Agreement provisionally in tune with Resolution 1 on the Early and Effective Implementation of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea, 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks as adopted by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, no State had until 15<sup>th</sup> October 1997 agreed to a provisional application of the Agreement. See Oceans And The Law Of The Sea : Agreement For- The Implementation Of The Provisions Of The United Nations Convention On The Law Of The Sea Of 10 December 1982 Relating To The Conservation And Management Of Straddling Fish Stocks And Highly Migratory Fish Stocks.. A/52/555.

<sup>12</sup> See Law of the Sea: Agreement for the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks. A/51/L. 28.

The *Agenda For Development*, adopted by the General Assembly encourages countries" to become parties to the Agreement for the Implementation of the Provisions of The United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and to implement this Agreement."<sup>13</sup>

### MEETING OF STATES PARTIES TO THE CONVENTION

The Convention on the Law of the Sea, it will be recalled, does not provide for a regular conference of Parties. It did, however, stipulate Meetings of States Parties to establish the International Tribunal for the Law of the Sea (ILTOS) and the Continental Shelf Commission. It also provided for subsequent meetings as necessary e.g. to conduct elections periodically and to adopt the budget of the Tribunal. The meeting of States Parties may thus be regarded as an important component of the new system of ocean institutions.

It may be recalled that the Preparatory Committee for the Establishment of the International Sea Bed Authority and the International Tribunal for the Law of the Sea (PREPCOM) at its session held in August 1994 had recommended that the Secretary General convene an ad hoc meeting of the State Parties to the Convention soon after the entry into force of the Convention. Following this recommendation of the PREPCOM an ad hoc meeting of States Parties to the Convention on the Law of the Sea was convened in New York in November 1994.

The sixth and seventh Meetings of States Parties to the Convention were held in New York from 10 to 14 March 1997, and from 19 to 23 May 1997. The Sixth Meeting was devoted primarily to the election of the 21 members of the Commission on the Limits of the Continental Shelf, and the Seventh Meeting to the budget of the Tribunal. The Secretariat of the AALCC was not represented at these and other meetings of the Law of the Sea Institutions.

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<sup>13</sup> *Agenda for Development*, (United Nations, New York, 1997) para 151 at pp 58-59.



## THE INTERNATIONAL SEABED AUTHORITY (ISBA)

The International Seabed Authority ( hereinafter referred to as ISBA) established by the Convention, with its seat at Kingston, Jamaica, is the organization through which its Member States organize and conduct activities of exploration for and exploitation of the deep seabed and ocean floor and the sub soil thereof. It comprises all the States Parties to the Convention as well as those States which have agreed to the provisional application of the 1994 Agreement on the Law of the Sea. As of September 1997 there were 115 members of the Authority, including 15 members on a provisional basis. It may be stated, that at the request of 18 Member States, including 3 Member States of the AALCC,<sup>14</sup> the General Assembly at its 51st Session considered an item entitled "Observer Status for the International Seabed Authority in the General Assembly"<sup>15</sup> and ' by its resolution 51/6 invited "the Seabed Authority to participate in the deliberations of the General assembly in the capacity of observer."

On March 14, 1997 the Secretary General of the United Nations and that of the ISBA signed the **Agreement Concerning the Relationship between the United Nations and the International Seabed Authority**. The Agreement is "intended to define the terms on which the United Nations and the Authority shall be brought into relationship."<sup>16</sup> The Agreement stipulates that the United Nations recognizes that the Authority is the organization for organizing and controlling activities in the seabed and ocean floor and subsoil thereof in the Area and that the Authority shall function as an autonomous international organization. The Authority on its part shall promote peace and international cooperation. The provisions of Article 4 of the Agreement requires

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<sup>14</sup> The 18 Member States were Australia, Brazil, Cameroon, Fiji, Finland, Germany, Iceland, India, Indonesia, Italy, Jamaica, Japan, New Zealand, Portugal, Samoa, Sweden, Trinidad and Tobago, and the United Kingdom of Great Britain and Northern Ireland.

<sup>15</sup> See A/51/250 and Add. 1.

<sup>16</sup> See Article I entitled "Purpose of the Agreement" of the Agreement Concerning the relationship between the United Nations and the International Seabed Authority UN Document A/52/260, Annex, July 28, 1997. Reproduced in 36 I.L.M 1492 (1997).

the Authority to provide the Security Council with information and assistance needed to maintain or restore international peace and security. Article 5 stipulates that the "Authority agrees, subject to the provisions of this Agreement relating to the safeguarding of confidential material, to provide any information that may be requested by the International Court of Justice in accordance with the Statute of the Court. At its recently concluded 52nd Session the General Assembly approved the Agreement."<sup>17</sup>

### (i) Council of the International Sea-bed Authority

It may be recalled that according to the 1994 Agreement on the Law of the Sea, the Council is to consist of 36 Members representing five groups of States reflecting 4 main elements viz. (i) States with a Special interest in deep seabed mining such as the largest consumers or largest producers of the categories of minerals to be mined from the seabed (ii) States that have pioneered large investments and activity in the international seabed area; (iii) developing States with special interests such as land locked or populous States; and (iv) an equitable geographical representation as well as a balance between developed and developing States.

Group A has 4 Members from among those States Parties which during the last 5 years have either consumed more than 2 percent, in value terms of total world consumption or have had net imports of more than 2 percent in value terms of total world imports of commodities produced from the categories of minerals to be derived from the international seabed area - "the Area". Of these, one should be the State with the largest economy in Eastern Europe in terms of gross domestic product. At its second session held in March 1996 the ISBA elected the 4 States in this category. The States so elected are Japan, Russian Federation, the United Kingdom and the United States of America.<sup>18</sup>

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<sup>17</sup> See *Oceans And The Law of The Sea .. Law of The Sea, A/52/L.27*

<sup>18</sup> While Japan and United Kingdom have been elected for a 4 years term, the Russian Federation and the USA have been elected for a 2 year term with the understanding that either of them could be re-elected for another term of 4 years, if it so wishes



Group B has 4 Members from among the State Parties which have made the largest investments in preparation for and in the conduct of activities in the area. As its second session the ISBA elected the People's Republic of China, France, Germany and India to represent Group B States in the Council.<sup>19</sup>

Group C representative of the States Parties which, on the basis of production in areas under their jurisdiction are major net exporters of the categories of minerals to be derived from the area including at least 2 developing States whose exports of such minerals have a substantial bearing upon their economics, is to have 4 seats on the Council. Accordingly the ISBA at its Session in March 1996 elected Australia, Chile, Indonesia and Zambia.<sup>20</sup>

Group D of States had agreed to divide the 6 seats available equally among the 3 regional groups represented viz. the African Group, the Asian Group and the Latin American and Caribbean Group of States. 6 States viz. Bangladesh, Oman, Cameroon, Nigeria, Brazil and Trinidad and Tobago have accordingly been elected from among the developing states and represent States with large populations, land locked or geographically disadvantaged

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<sup>19</sup> While China and France have been elected for a 4 year term each, Germany and India have been elected for a 2 year term each. It is understood that while Germany would be reflected in 1998 for a 4 year term. India will be re-elected in 2000 for a 4 year term and that the Netherlands will be elected in 1998 for a 4 year term. It is also understood that other States eligible to represent Group B can contest any vacant seat in 2000.

<sup>20</sup> While Australia and Chile have been elected for 2 years terms, Indonesia and Zambia have been elected for 4 years terms. With regard to the latter 2 States viz. Indonesia and Zambia however it is understood that they would after 2 years relinquish their seats to Poland and Gabon to complete the remaining part of the term viz. 2 years. It is further understood that Indonesia, Zambia and indeed any other State eligible to be represented in Group C can, after 2 years, contest the 2 seats to be vacated by Australia and Chile.

States, Island States and States which are major importers of categories of minerals to be derived from the area.<sup>21</sup>

The last group, Group E was to have 19 members elected on the basis of equitable geographical distribution, provided that each geographical region shall have at least one member elected. For this purpose, the geographical regions are Africa, Asia, Eastern Europe, Latin America and the Caribbean, and the Western Europe and Other States. Pursuant to that understanding the following have been elected to represent Group E of States in the Council:-

- (i) Asian Group: Republic of Korea, Malaysia, and Philippines.<sup>22</sup>
- (ii) African Group: Egypt, Kenya, Namibia, Senegal, South Africa, Sudan and Tunisia.<sup>23</sup>

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<sup>21</sup> Among the Asian Group of States Bangladesh and Oman have been elected for a 2 years and a 4 year term respectively. Among the African Group of States Cameroon has been elected for a 2 year term and Nigeria for a 4 year term. Nigeria has been elected for a 4 year term with the understanding that it will serve only during the first 2 years and thereafter relinquish the seat to Sudan to serve for 2 years such as to complete the 4 year term. Brazil has been elected for a 4 year term and Trinidad and Tobago will serve in the Council for a total period of 4 years and Paraguay for a total period of 2 years. For this purpose, Trinidad and Tobago elected to serve a 1 year term in Group D against a 2 year seat is thereafter to replace Paraguay in Group E for the remaining 3 years. Trinidad and Tobago will be replaced in Group D by Jamaica for the remaining 1 year. Paraguay, after serving 1 year in Group E will take an additional seat in Group E for 1 year vacated by the Western European and Others Group.

<sup>22</sup> Republic of Korea is elected for a 2 year term; Philippines is elected for a 4 year term but in the fourth year (1999) it will occupy the seat in which it will participate in the deliberation of the Council without the right to vote; and Malaysia is elected to a 2 year term.

<sup>23</sup> Sudan is elected for a 2 year term (after which it will replace Nigeria in Group D for the remaining 2 years of the 4 year term in which Nigeria is elected; South Africa is elected for a 2 year term; Senegal is elected for 4 year term; Tunisia is elected for a 2 year term; Kenya is elected for a 4 year term and Namibia is elected for a 4 year term.



(iii) Eastern Europe: Poland and Ukraine<sup>24</sup>

(iv) Latin America and Caribbean States, Argentina, Cuba and Paraguay.<sup>25</sup>

(v) Western Europe and other States: Austria, Italy and Netherlands<sup>26</sup>

It would have been observed that 14 Member States of the AALCC are represented on the 36 Member Council of the ISBA. The Member States of the AALCC represented on the Seabed Council are: Arab Republic of Egypt, Bangladesh, People's Republic of China, India, Indonesia, Japan, Kenya, Republic of Korea, Malaysia, Nigeria, Oman, Philippines, Senegal, and Sudan. The Council of the ISBA elected Mr. Lennox Ballah of Trinidad and Tobago as its first Chairman.

## (ii) Legal and Technical Commission

Paragraph 1 (b) of Article 163 of the Convention on the Law of the Sea envisaged the establishment of a Legal and Technical Commission. The States Parties to the Convention have accordingly established a 22 member Legal and Technical Commission comprising the nominees of Bahamas, Cameroon, China Costa Rica, Cote d'Ivoire, Cuba, Egypt, Fiji, Finland, France, Gabon, Germany, India, Italy, Japan, Republic of Korea, Namibia,

<sup>24</sup> Poland is elected for a 2 year term and Ukraine is elected for a 4 year term.

<sup>25</sup> Argentina is elected for a 4 year term; Paraguay is elected for a 4 year term, with the understanding that it will serve only the first year, after which it will relinquish the seat to Trinidad and Tobago for the remaining 3 years; and Cuba is elected for a 2 year term.

<sup>26</sup> Italy is elected for a 4 year term, but will relinquish its seat in the third year to Belgium and will resume it in the 4th year. Austria has been elected for a 2 year term, but in the framework of the rotation agreement, will relinquish its seat in the second year. Austria has been designated to participate in the deliberations of the Council without the right to vote during this second year; and The Netherlands will be elected for a 2 year term, but will relinquish its seat in the second year to Belgium. As of 1998 the seat reverting to the Western European and others Group in Group E will be occupied by Austria in the first year and by Belgium in the second year.

Norway, Poland, Russian Federation, Ukraine, and the United States of America<sup>27</sup>

The functions of the Legal and Technical Commission as enumerated in Article 165 of the Convention on the Law of the Sea *inter alia* include (i) making recommendations, upon the request of the Council, with regard to the exercise of the Authority's functions; (ii) review formal plans of work for activities in the Area and to submit appropriate recommendations to the Council. The Legal and Technical Commission of the International Seabed Authority took a step towards the fulfilment of its functions by preparing a set of **Draft Regulations on Prospecting and Exploration of Polymetallic Nodules in the Area** hereinafter referred to as the Draft Regulations). The Draft Regulations prepared by the Legal and Technical Commission of the International Seabed Authority comprise 32 regulations arranged in seven (7) Parts viz (i) Introduction (Regulation 1); (ii) Notification of Prospecting (Regulations 2-5); (iii) Applications For Approval Of Plans of Work for Exploration to Obtain a Contract (Regulations 6- 19); (iv) Contracts for Exploration (Regulations 20-27); (v) Protection and Preservation of the Marine Environment (Regulation 28-30); (vi) Confidentiality (Regulation 31); and (vii) Settlement of Disputes (Regulation 32). Part II of the draft Regulations entitled "Applications For Approval Of Plans of Work for Exploration to Obtain a Contract" (Regulations 6-19) consists of four sections viz. (1) General Provisions (Regulations 6-7) (2) Content of Applications (Regulations 8-15); (3) Fees (Regulation 16); and (4) Procedures for Applications (Regulation 17-19)<sup>28</sup>

<sup>27</sup> Bahamas (Stewart, George P.), Cameroon (Betah, Samuel Sona), China (Li, Yuwei), Cote d'Ivoire (Guehi, Robert), Costa Rica (Concejo, Jose de J.), Cuba (Preval Pacz, Luis Giotto), Egypt (Hanafi, Waguhi), Fiji (Simpson, A.), Finland (Winterhalter Boris), France (Lenoble, Jean-Pierre), Germany (Amann, Hans), Gabon (Mve-ebang, Marcellin), India (Rajan, H.P.), Italy (Rosa, Giovanni), Japan (Sakasagawa, Toshio), Norway (Bjorlykke, Arne), Namibia (Shimutwikeni, H.), Poland (Kotlinski, Ryszard), Republic of Korea (Kang, Jung-Keuk), Russian Federation (Ivan F. Glumov), Ukraine (Schlyptsov, Olexander A.) and United States of America (Morgan, Charles Lowell)

<sup>28</sup> See *The Provisional Text of the Draft Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area prepared by the Legal and Technical Commission* Doc. ISBA/3LTC/WP.1/Rev3



Appended to the draft regulations are four annexures relating to (i) Notification of Intention to Engage in Prospecting; (ii) Application for Approval of a Plan of work for Exploration To Obtain a Contract; (iii) Contract for Exploration; and (iv) Standard Clauses for Exploration Contract.

It would have been observed that Part III (Applications For Approval of Plans of Work for Exploration to Obtain a Contract, Regulations 6-19) and Part IV (Contracts for Exploration, Regulations 20-27) of the draft regulations read together with Annexes 2, 3 and 4 thereof are the very core of the proposed contract regime for the exploration of polymetallic nodules in the Area. The work of the Commission reflects the "extensive consideration it gives to 3 key areas that it had identified" viz. (i) the protection and preservation of the marine environment; (ii) annual reporting and the transfer of data by contractors to the Authority; and (iii) Confidentiality of the information submitted.<sup>29</sup>

### (iii) The Finance Committee

It may be recalled that the 1994 Agreement *inter alia* stipulates that the Assembly shall elect 15 Members of the Finance Committee from candidates nominated by States Parties, taking into account equitable geographical representation and special interests. The 5 categories of Council Members shall be represented on the Finance Committee by at least one member and until the Authority remains dependent on assessed contributions, the 5 largest contributors to the budget of the United Nations will also be represented on the Committee. The remaining 5 members are to be elected from among the other States Parties. The ISBA at its resumed session held in August 1996, *inter alia*, elected its Finance Committee.<sup>30</sup>

<sup>29</sup> Oceans and the Law of the Sea : Law of the Sea, op cit, supra note

<sup>30</sup> The final agreement on the composition of the Committee is understood to have been reached after the various regional and interest groups arrived at an understanding on the allocation of seats and the duration of terms. 7 Members of the Finance Committee are nominees of developed countries and 8 those of the developing countries. The Committee reviewed the proposed budget of the Authority submitted by the Secretary-General of the Authority, and on the basis of its recommendations, which were endorsed by the Council, the Assembly adopted a budget of the Authority for 1997.

The Members of the Finance Committee are China; France; Germany; India; Italy; Jamaica; Japan; Mexico; Russian Federation; South Africa; Tunisia; Uganda; United Kingdom; United States of America; and Uruguay.<sup>31</sup> The Committee reviewed the proposed budget of the Authority submitted by the Secretary-General of the Authority, and on the basis of its recommendations, which were endorsed by the Council, the Assembly adopted a budget of the Authority for 1997. The Committee reviewed the proposed budget of the Authority submitted by the Secretary-General of the Authority, and on the basis of its recommendations, which were endorsed by the Council, the Assembly adopted a budget of the Authority for 1997.

## VI. COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

Article 76 of the Convention envisages the establishment of the Commission on the Limits of the Continental Shelf (hereinafter referred to as the Continental Shelf Commission). The Continental Shelf Commission established in conformity with Annex 11 of the Convention consists of 21 members, serving in their personal capacity as experts in the field of geology, geophysics or hydrography, elected by States Parties to the Convention from among their nationals, having due regard to the need of ensuring equitable geographical representation.

The first election, in accordance with Article 2 paragraph 2 of Annex 11 of the Convention, was to have been held within 18 months after the date of entry into force of the Convention i.e. before 16 May 1996. It had however been agreed at the Meeting of the States Parties, held in New York during

<sup>31</sup> Lou Hong (China), Jean-Pierre Levy (France), Jobst Holborn (Germany), S. Rama Rao (India), Demenico Da-Empoli (Italy), Coy Roache (Jamaica), Tadanori Inomata (Japan), Issac Klipstein Margulis (Mexico), Serguey P. Ivanov (Russian Federation), Craig John Daniell (South Africa), Samia Ladgham (Tunisia), David Etuket (Uganda), Michael C. Wood (U.K.), M. Deborah Wynes (U.S.A.), and Ernesto Belo Rosa (Uruguay).