

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".¹¹

1. Meeting of States Parties to The Convention

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 Meetings of States Parties to the Convention, convened by the Secretary General have been dealing primarily with the elections for and the budget of the International Tribunal on the Law of the Sea and with the establishment of the Commission on the Limits of the Continental Shelf. The fourth and the fifth Meetings were held in New York from 4 to 8 March and from 24 July to 2 August 1996 respectively.

The sixth and seventh Meetings of States Parties to the Convention will be held in New York from 10 to 14 March 1997, and from 19 to 23 May 1997. The sixth Meeting will be 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 Convention on the Law of the Sea, it will be recalled, does not provide for regular Conference of Parties. It did, however, stipulate Meetings

¹¹ 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\250\A and Add. 1.

of States Parties to establish the International Tribunal for the Law of the Sea (ITLOS) and the Continental Shelf Commission. It also provided for subsequent meeting as necessary e.g. to conduct elections periodically and to adopt the budget of the Tribunal. The Directing of States Parties may thus be regarded as an important component of the new system of ocean institutions.

2. The International SeaBed Authority (ISBA)

The International Seabed Authority (ISBA) 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. It may be stated that at the request of 18 Member States, including 3 Member States of the AALCC¹² the General Assembly at its 51st Session considered an item entitled "Observer Status for the International Seabed Authority in the General Assembly".¹³

The first part of the second session of the ISBA was convened in Kingston, Jamaica from 11th to 22nd March 1996. The Assembly had on its agenda several items including the election of the first Secretary General of the Assembly, composition and election of the members of the Council, and election of Members of its other major organs viz. the Finance Committee and the Legal and Technical Committee. During its meeting in March 1996 the Assembly elected Mr. Satya N. Nandan (Fiji) the first Secretary General of the Authority.

¹²The 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.

¹³See A\51\250\A and Add. 1.

(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 is to have 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.

It needs to be stated that 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 a another term of 4 years, if it so wishes.

Group B is to have 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. At its second session the ISBA elected the People's Republic of China, France, Germany and India to represent Group B States in the Council.

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 re-elected 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 terms. It is also understood that other States eligible to represent Group B can contest any vacant seat after 4 years i.e. in 2000.

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 economies, is to have 4 seats on the Council. Accordingly the ISBA at its Session in March 1996 elected Australia, Chile, Indonesia and Zambia.

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 Indonesia and Zambia, 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 year, contest the 2 seats to be vacated by Australia and Chile.

During the first session of the ISBA 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 States, Island States and States which are major importers of categories of minerals to be derived from the area.

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.

The last group, Group E was to have 18 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. 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.
- (ii) African Group: Egypt, Kenya, Namibia, Senegal, South Africa, Sudan and Tunisia. 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. Poland is elected for a 2 year term and Ukraine is elected for a 4 year term.
- (iv) Latin America and Caribbean States: Argentina, Cuba and Paraguay. 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.

- (v) Western Europe and other States: Austria, Italy and Netherlands. Italy is elected for a 4 year term, but it 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 other Group in Group E will be occupied by Austria in the first year and by Belgium in the second year.

It would have been observed that 14 Member States of the AALCC are represented on the Council of the ISBA.¹⁴ The Council of the ISBA elected Mr. Lennox Ballah of Trinidad and Tobago as its first Chairman. It may be mentioned that upon his election, Mr. Ballah stated that the immediate task facing the Council was the approval of the 1997 budget of the Authority as soon as the Finance Committee had made its recommendations.

(ii) 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

¹⁴The Member States of the AALCC represented on the Seabed Council are: Arab Republic of Egypt, Bangladesh, People's Republic of Indonesia, Japan, Kenya, Republic of Korea, Malaysia, Nigeria, Oman, Philippines, Senegal and Sudan.

at least one Member and until the authority remains dependent on assessed contributions, the 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 at its Finance Committee.¹⁵

The next meeting of the Assembly of the Seabed Authority was scheduled to be held from 17th to 28th March 1997 during which it was expected to devote its attention to the consideration of the draft budget of the Authority for 1997, the adoption of the rules of procedure of the Council, as well as the election of the next President of the Assembly and the President of the Council. The Authority would thereafter meet from 18 to 29 August 1997.

3. 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 to be established in conformity with Annex II of the convention is to consist 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 functions of the Commission would be (i) to consider the data submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to

¹⁵ 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.

make recommendations in accordance with Article 76 of the Convention and the statement of understanding adopted by UNCLOS III on 29 August 1980; and (ii) to provide scientific and technical advice if requested by the coastal State concerned during the preparation of such data.

The members of the Continental Shelf Commission were to be elected at the Meeting of the State Parties to be held from 10 to 14 March 1997. It may be recalled that the first election, in accordance with Article 2 paragraph 2 of Annex II of the Convention, was to be held within 18 months after the date of entry into force of the Convention i.e. before 16 May 1996. It was however agreed at the Meeting of the States Parties, held in New York during November-December 1995, that the election of the members of the Continental Shelf Commission be postponed until March 1997.¹⁶

4. International Tribunal For The Law of The Sea

The States Parties to the Convention at their fifth meeting held in New York from 24 July to 2 August 1996 elected 21 Judges of the International Tribunal for the Law of the Sea. In accordance with the understanding that no regional group would have less than three seats the geographical representation of the elected members of the Tribunal is as follows: African Group, 5¹⁷; Asian Group, 5¹⁸; Latin American and Caribbean Group, 4¹⁹; Eastern European Group, 4²⁰; and Western European

¹⁶ Albeit no precise date of the election had been then fixed it was then proposed that the nomination of candidates would open on 3 November 1996. A state in the process of becoming a Party to the Convention may also nominate a candidate. The nomination of such a State would, however, remain provisional and would not be circulated to all the States Parties unless the state concerned deposits its instrument of ratification or accession before the closing date of nomination viz. 5 February 1997.

¹⁷ Cameroon; Ghana; Senegal; Tanzania; and Tunisia.

¹⁸ China; India; Japan; Republic of Korea; and Lebanon.

¹⁹ Argentina; Belize; Brazil; and Grenada.

²⁰ Bulgaria; Croatia and Russian Federation.

and other States Group, 4²¹ It may be mentioned that one third or 7 members of the Tribunal have been elected for 3 year term²² and two thirds or 14 members for 6 year terms.²³

The Judges elected are: - D.H. Anderson, Hugo Caminos, Gudmundur Eiriksson, Paul Bamela Engo, A. Joseph, Anatoly Lazarevich Kolodkin, Edward A. Laing, Rangel Vicente Marotta, Mohamed Mouldi Marsit, Thomas A Mensali, Tafsir Malick Ndlaye, L. Dolliver Nelson, Choon-Ho Park, P. C. Rao, Tullio Treves, Budislav Vukas, Joseph Sinde Warioba, Rudiger Wolfrum, Soji Yamamoto, Alexander Yankov, and Lihai Zhao.

During its first executive session, held in the Free and Hanseatic City of Hamburg, in October 1996 the seat of the Tribunal, the Judges were sworn in and elected Judge Thomas A. Mensah. (Ghana) to serve as the first President of the Tribunal and Judge Rudiger Wulfrum (Germany) was elected Vice President. On October 21, 1996 the Judges of the Tribunal appointed Mr. Gritakumar (Sri Lanka) as the first Registrar of ITLOS, and Mr. Philippe Gautier (Belgium) as the Deputy Registrar.

During its first session the ITLOS, apart from such organizational matters as the elections of the President, Vice President, Registrar and Deputy Registrar, considered: (i) the provisions of the Tribunal relating to matters of urgency; (ii) matters pertaining to the staff of the Tribunal. (iii) the principles and criteria relating to incompatible activities of members of the Tribunal; (iv) establishment of Chamber of.

²¹ Germany; Iceland; Italy; and United Kingdom of Great Britain and Northern Ireland.

²² The Judges elected for three year terms are: Paul B. Engo (Cameroon); A. Joseph (Lebanon); A.L. Kolodkin (Russian Federation); V. Marotta Rangel (Brazil); P.C. Rao (India); J.S. Warioba (Tanzania) and R. Wolfrum (Germany);.

²³ D.H. Anderson (United Kingdom); Hugo Caminos (Argentina); G. Eiriksson (Iceland); E.A. Laing (Belize); M.M. Marsit (Tunisia); T.A. Mensah (Ghana); T.M. Ndiaye (Senegal); L. Dolliver Nelson (Grenada); C.H. Park (Republic of Korea); T. Treves (Italy); Budislav Vukas (Croatia); S. Yamamoto (Japan); Alexander Yankov (Bulgaria); and L. Zhao (China).

Summary proceedings; (v) problems relating to the current budget and exchange of views about the 1998 budget; (vi) issues concerning the relations between the Tribunal and the United Nations, practical matters relating participation in the United Nations Common System, including the UN Joint Staff Pension Fund; (vii) the draft Headquarters Agreement; and (viii) planning of sessions of the Tribunal in 1997, as well as the organization of the inter-sessional work of the Members of the Tribunal.

The Tribunal was to hold its second Session in February 1997, during which Session it was expected to consider, on a priority basis, the following matters:

- (i) The elaboration of the Rules of the Tribunal;
- (ii) The establishment of Chambers;
- (iii) The budget of the Tribunal for 1998;
- (iv) The relations with the United Nations, the Authority and other bodies; and
- (v) Internal arrangements of the Tribunal, including library facilities and publications, financial regulations staff regulations and other related matters.

It may be stated in this regard that the General Assembly at its 51 st Session, *inter alia* welcomed the establishment of the ITLOS. The programme for activities for the final term (1997-1998) of the United Nations Decade of International Law adopted by the General Assembly at its 51 st Session *inter alia* takes note of the "establishment of the International Tribunal for the Law of the Sea in October 1996 in accordance with the United Nations Convention on the Law of the Sea" and encourages the States and other entities referred to in Article 20 of Annex VI of the Convention to consider making use of the Tribunal for the peaceful settlement of disputes in accordance with Article 21 of Annex VI of the Convention".²⁴

²⁴ See United Nations Decade of International Law: Report of the Sixth Committee Doc. No. A/51/625 and A/C.6/51/L.11.