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Agenda item 12

Report of the Chair of the Legal and Technical Commission on the work of the Commission at its twenty-fifth session

Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its twenty-fifth session

I. Introduction

1. Part I of the 2019 session of the Legal and Technical Commission of the International Seabed Authority was held from 4 to 15 March 2019. The second part will be held from 1 to 12 July 2019 (July session).
2. Twenty-nine members of the Commission attended the meetings. Alonso Martinez Ruiz was unable to attend. Having been elected by the Council to fill a vacancy on the Commission during the first part of its twenty-fifth session, Michael Gikuhi participated in the meetings.
3. On 4 March, the Commission adopted its agenda ([ISBA/25/LTC/1](#)) and re-elected Michelle Walker as Chair and Harald Brekke as vice-Chair of the Commission.

II. Activities of the contractors

A. Status of contracts for exploration

4. The Commission took note of the status of contracts for exploration, as contained in document [ISBA/25/LTC/2](#).

B. Information on the periodic reviews of the implementation of plans of work for exploration

5. The Commission took note of the information on periodic reviews, as contained in document [ISBA/25/LTC/2](#). The five-year review report and the programme of work for the next five-year period submitted by Japan Oil, Gas and Metals National



Corporation and the five-year review report submitted by UK Seabed Resources Ltd were made available to the Commission on its secure website. The members of the Commission will provide their comments during the intersessional period on the review reports of both contractors, and the secretariat will submit a summary of the comments received to the Commission at its July session. The Commission acknowledged the key role of the Secretary-General in the periodic review process, noted the importance of the periodic review in evaluating the future direction of the contractor's workplan to achieve its objectives and welcomed the opportunity to provide the Secretary-General with advice in a timely manner on specific issues referred to it by the secretariat arising from the periodic reviews. Keeping in mind the numerous periodic reviews due in the coming years, the Commission decided to include the periodic reviews as a standing item on its agenda. The Commission noted that it met only twice a year, while periodic review reports might be submitted at different times during the year depending on the obligations of the different contractors. Reports could also be long and detailed, requiring much time for review. As such, the Commission was of the view that it should continue to reflect on how the expertise of the Commission could be best used to contribute to evaluating the periodic review reports.

C. Implementation of training programmes under contracts for exploration and allocation of training opportunities

6. On 4 March 2019, the Commission was briefed on the selection of candidates for training programmes since July 2018. At its twenty-third session, in 2017, the Commission had agreed that the training subgroup would work with the secretariat in the intersessional period to identify appropriate candidates for training opportunities (ISBA/23/C/13, para. 7). Between August 2018 and March 2019, 22 first-ranked and 19 alternate candidates had been selected on the basis of the recommendations of the subgroup.

7. At the current session, the Commission was invited to select 10 additional candidates for five training programmes being offered by five contractors pursuant to their contracts for exploration with the Authority. On the basis of the recommendations of the subgroup, 8 first-ranked and 14 alternate candidates were selected by the Commission, with 2 of those placements being recommended for re-advertisement owing to the small number of applications received (see [ISBA/25/LTC/5](#)).

8. During the general discussion of the implementation of the training programmes, the Commission noted with satisfaction the increased number and variety of training opportunities. However, the Commission lamented the fact that a number of training opportunities had had to be re-advertised owing to a lack of nominations of suitably qualified candidates. The Commission therefore sought the Council's support in providing or suggesting focal points in member States who would be responsible for disseminating information on training. In addition, it was noted that trainees still continued to face challenges in acquiring transit visas, which prevented them from taking advantage of training opportunities.

9. The Commission, in relation to a request during its twenty-fourth session¹ to monitor trainee progress, wished to acknowledge with appreciation the reports of trainees who were receiving long-term training, such as those pursuing doctoral and master's degrees. The Commission welcomed their progress in the training and looked forward to their successful completion of their training programmes.

¹ See [ISBA/24/C/9](#), para. 7.

10. While noting that no specific case of harassment had been brought to the attention of the Authority, the Commission considered, in response to the request from the Council on 1 March 2019, the matter of sexual harassment in relation to training programmes and decided to request the secretariat to ascertain the policies and procedures that the contractors had in place concerning health and safety and harassment for training vessels and institutions and to report back to the Commission at its July session.

D. Relinquishment of areas under contract for exploration for polymetallic sulphides and cobalt-rich crusts

11. The Commission was developing a procedure with the aim of establishing a process to assist the contractors in fulfilling their obligation to proceed with the relinquishment of areas under exploration contract for polymetallic sulphides² or cobalt-rich crusts.³ The Commission recommended that the relinquishment should be achieved by subdividing the initial blocks in the exploration contract into cells of equal area. As a general rule, those cells should have dimensions of 1 km x 1 km. Where it is not possible to subdivide the blocks by that general rule, the Commission's principles should be applied in a pragmatic manner to achieve an equivalent outcome. The Commission will continue its work on the matter at its July session.

III. Consideration of an application for approval of a plan of work for exploration

12. On 5 March 2019 the Commission started its consideration of an application for approval of a plan of work submitted by Beijing Pioneer Hi-Tech Development Corporation by hearing a presentation by the applicant, which was followed by an oral question-and-answer session. On 7 March, the Commission sent a list of questions to the applicant and received a response on 8 March. The Commission considered the responses on 12 March and sent a second round of questions to the applicant on 13 March. Responses to the questions of the second round were received on 14 March. Owing to the time restraints at the current session, the Commission will continue to consider the application at its July session.

IV. Regulatory activities of the Authority

A. Consideration and adoption of the draft regulations on the exploitation of mineral resources in the Area

13. The Commission considered the draft exploitation regulations as the priority matter of the current session and devoted a total of seven days on the related agenda item. The Commission reviewed the Council's guidance as well as the comments received from stakeholders in their recent submissions on the draft regulations, with a view to revising the current regulatory text.⁴ The Commission acknowledged that many of the recent submissions from members of the Authority and other stakeholders had been comprehensive, had provided suggested revised text and had contained comments on specific regulations and annexures. The Commission expressed its appreciation to the secretariat for having captured that information as far as practical

² See regulation 27 of the polymetallic sulphides regulations ([ISBA/16/A/12/Rev.1](#)).

³ See regulation 27 of the cobalt-rich crusts regulations ([ISBA/18/A/11](#)).

⁴ See [ISBA/24/LTC/WP.1/Rev.1](#).

in a revised working paper on the draft regulations, together with suggestions for the Commission's consideration. On 15 March, the Commission issued a set of revised draft regulations as a working paper for the Council's consideration in July 2019, together with an accompanying commentary introducing changes to the text.

14. On 12 March, the Commission endorsed a terms of reference for a study into the potential impact of the production of polymetallic nodules from the Area on the economies of those developing land-based States that produce such metals and that are most likely to be seriously affected.

15. On 13 March, the Commission endorsed a terms of reference for a workshop on the development of standards and guidelines for the mining code. The workshop would be held from 13 to 15 May 2019 in Pretoria.

B. Revised recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area

16. The Commission recalled that, in February 2017, it had established a working group to begin the review of the recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area ([ISBA/19/LTC/8](#)). The working group had submitted a set of draft revised recommendations in July 2017, and the Commission had decided to seek inputs on the draft revised recommendations from contractors and external scientific experts, in particular experts in disciplines not covered by the expertise within the Commission. The Commission had also drawn on the outcomes of several recent workshops and international projects on the impacts of deep-sea mining. In March 2018, the Commission had considered the inputs submitted by contractors and external scientific experts and had requested the working group to submit a further revised document for its consideration in July 2018. In July 2018, the Commission had considered the draft revised document and had agreed to work on it during the intersessional period.

17. The Commission wished to place on record its gratitude to the contractors, as well as external scientific experts, for the time and effort they had spent on providing valuable inputs to the Commission for its review of the recommendations. The Commission agreed that the revised recommendations should be released without delay and be reported to the Council at its July session.

18. On 13 March 2019, the Commission adopted the revised recommendations. The Commission also updated the explanatory commentary to the recommendations, with the aim of guiding contractors on the best technologies and methodologies currently available to support them in implementing the recommendations for exploration and in achieving the effective protection of the marine environment from harmful effects that might arise from activities in the Area.

19. During its meetings in July 2018, the Commission had also agreed to set up another working group to consider the process for its review of the proposal of an environmental impact assessment for test mining or the testing of mining components in the future. During the current session, the Commission considered a draft text prepared by the working group on the environmental impact assessment process during exploration and decided to continue to work on the issue at its July session. The Commission acknowledged that there were possible financial and legal implications to be considered regarding the role of the secretariat in facilitating the proposed process for environmental impact applications and assessments for designated activities during exploration. In view of the above, the Commission

requested the secretariat to analyse and consider the legal and financial implications involved and report back to the Commission at its July session.

V. Review and development of regional environmental management plans

20. On 4 March 2019, the Commission was briefed by the secretariat regarding the ongoing and proposed work activities for the review of the implementation of the environmental management plan for the Clarion-Clipperton Fracture Zone, as well as the development of other regional environmental management plans in the Area.

21. With regard to the review of the implementation of the environmental management plan, the Commission noted that a joint workshop between the Authority and the University of Hawaii on deep biodiversity synthesis in the Fracture Zone would be held from 1 to 4 October 2019. The workshop would utilize research and contractor data from the Authority's database to examine patterns and trends of biodiversity in the Fracture Zone, including areas of particular environmental interest. Following the workshop, the Commission would consider the issue of additional areas of particular environmental interest in the Fracture Zone.

22. With regard to the development of other regional environmental management plans in the Area, the Commission was briefed on the draft programme of work of the secretariat to implement the preliminary strategy for the development of regional environmental management plans for the period 2019–2020, as contained in the annex to document [ISBA/25/C/13](#). The Commission noted that further discussions should include: (a) the role of regional environmental management plans in the draft exploitation regulations; (b) the participation of stakeholders, including representatives of relevant coastal States and holders of traditional knowledge, in workshops on such plans; (c) the linkages between such plans and other global and regional processes; and (d) the importance of developing a transparent and inclusive process.

23. The Commission formed a working group to address a range of issues raised under this agenda item, in order to provide guidance on the steps and priorities for future work activities to be undertaken by the secretariat. On 13 March 2019, the Commission considered a report of the working group on the results of the discussion, including the status of activities undertaken so far and the progress expected by 2021 regarding the implementation of the environmental management plan, as well the lessons that had been learned from the implementation of the plan that could be applied to the future development of regional environmental management plans in the Area.

VI. Implementation of the data management strategy of the Authority

24. On 4 March 2019, the Commission received an update on the implementation of the data management strategy. The Commission was informed that the project phases outlined in document [ISBA/22/LTC/15](#) had all been completed successfully. The Commission noted with satisfaction the completion of the initial infrastructure development incorporated in the data management strategy. The Commission also noted that a beta version of the database had been launched to contractors in October 2018 and the relevant findings had been noted for future development. On 14 March, the Commission participated in the second beta version launch of the data management system. This had initialized the user acceptance testing process to be

undertaken by its members. The Commission was also informed that the public launch of the data management system was scheduled for July 2019 as a part of the Authority's twenty-fifth anniversary celebration. The Commission also noted that the updated reporting templates and data management strategy manual would be presented for its consideration at its twenty-sixth session.

VII. Issues relating to operation of the Enterprise

25. On 13 March 2019, the Commission considered an executive summary of a draft study prepared by external consultants on the issues relating to the operation of the Enterprise. Some members of the Commission provided its preliminary comments to the executive summary of the draft study. Members of the Commission were invited to submit their comments on the draft study to the secretariat by no later than 10 April 2019 in order to assist in the finalization of the study. The final study will be issued as a technical study in advance of the July session of the Council. The Commission, taking into account the content of the technical study, will work on its recommendations in relation to the operation of the Enterprise, which it will present to the Council at its July session.

VIII. Other matters

26. On 12 March, the Commission considered the issue of holding open meetings. The Commission decided that, in consideration of further open meeting arrangements, it should keep in mind the strategic plan of the Authority for the period 2019–2023 and take into account those issues of general interest to members of the Authority and not involving confidential information, such as the development of regional environmental management plans. The Commission welcomed the planned publication in July 2019 of the communication strategy of the Authority.

27. The Commission took note of the review of environmental impact assessments for the testing of collector components in the exploration area ([ISBA/25/LTC/4](#)) by the Germany Federal Institute for Geosciences and Natural Resources and Global Sea Mineral Resources, as well as the material supplied by the contractors and their sponsoring States since July 2018. The Commission noted that the contractors had followed most of the recommendations made during the peer review process conducted by the secretariat, and that their sponsoring States (Germany and Belgium, respectively) had conducted public consultations in their countries. The Commission noted that, owing to the time taken to respond to the reviews and to conduct public consultation, the component testing voyages had already started by the time the Commission met. The Commission had concluded the review process to check the completeness, accuracy and statistical reliability of both submissions.

28. At its meetings in July 2018, the Commission had taken note of a report submitted by the legal working group on liability for environmental harm and had decided to consider the report and subsequent actions at its next session, in March 2019. On 9 March, the members of the Commission participated in an informal workshop on liability for environmental harm. The purpose of the workshop – particularly for those members of the Commission with technical expertise – was to familiarize members with and introduce members to the work of the legal working group on liability for environmental harm. Several members of the legal working group made presentations on related legal issues and held a round-table discussion with the members of the Commission. The Commission decided to explore the issue further at its next sessions.