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Agenda item 6

Election of members of the Legal and Technical Commission

Letter dated 6 April 2022 from the Permanent Representative of the Russian Federation to the International Seabed Authority

The Russian Federation would like to ask the secretariat to include the report of the facilitator Vladislav Kurbatskiy on the elaboration of the election mechanism of the Legal and Technical Commission of the International Seabed Authority (see annex) as a document of the Council of the Authority.

The present letter cannot be used in order to attribute the report to, or otherwise associate it with, the Russian delegation.

(Signed) Sergey **Petrovich**
Ambassador



Annex to the letter dated 6 April 2022 from the Permanent Representative of the Russian Federation to the International Seabed Authority

[Original: Russian]

The topic of my presentation will be the outcome of the work of the informal working group. As you are well aware, I acted as the facilitator in my personal capacity at the request of the Council and went to great lengths to resolve the difficulties. These difficulties did not arise all of a sudden. Being under the thumb of a small group of countries unable to abide by their own agreements to limit the Legal and Technical Commission to 15 members has caused many problems for the International Seabed Authority, such as an enlarged Commission and problems with the election of its members.

Here is a summary of the work that I have carried out. I prepared four draft decisions. The first three were discussed in the light of the provisions of the Convention and the aspects indicated in the Council's decisions. While we made significant progress on each of them, one of the regional groups methodically blocked the proposed options. Nevertheless, in the course of the discussions, I was able to identify State approaches to the following conceptual issues:

- The role and substance of equitable geographical distribution
- The nature of special interests
- The relationship between equitable geographical distribution and special interests
- The importance of proper competence of Commission members
- The need to ensure the representation of the main specialties in line with the report of the Commission itself

We considered the possibility of establishing separate chambers for the selection of the Commission's members by dividing its membership into two categories, established on the basis of geography and qualifications. However, this idea did not receive significant support.

Different positions were expressed on all of these aspects. Specific language for inclusion was also submitted. Each new draft took into account the course of the discussion on these issues.

As a result, the vast majority of participants came to a common understanding of the following priority criteria that should be included in the draft as "requirements": competence; and the principle of equitable geographical distribution, with most countries insisting on a quantitative indicator (in one form or another) and on "special interests", albeit on a somewhat separate basis.

There were also a number of comments about the need for the representation of different specialties. Since this aspect is specifically mentioned in the Council's decision, it also seems appropriate to take this into account.

Discussions of the first two drafts were complicated by the impossibility of holding face-to-face meetings, owing to the pandemic. Council Decision [ISBA/26/C/30](#) of 31 March 2021 confirms this. Meanwhile, there was a substantial convergence of positions following the informal video consultations and written exchanges.

In December 2021, the group met for the first time in a long while. A significant number of delegations were able to participate in the face-to-face format. Some delegations participated remotely.

A third draft was presented during that session. It received the greatest and clearest support.

Every member had an opportunity to speak. In general, a certain commonality could be noted in the approaches of the representatives of the regional groups. As a result, four of the five regional groups expressed a willingness to work with this option with the intention of reaching a consensus during the current session.

The representatives of one group suggested an alternative version as the basis. In the end, both drafts were considered (the facilitator's third draft and the additional one proposed). There were many dissenting opinions regarding substantive aspects of the latter. These opinions were consistent with the previous course of the discussion.

As part of the working group meeting, the following approach was agreed upon. As the facilitator, I was tasked with analysing the latest round and proposing a fourth draft of the rules for further discussion. I did this. But as time is running out to discuss that draft, I propose that we take as a basis the draft that received the greatest number of delegations' support.

It provides for an agreed membership of the Commission of 30 members and the following distribution of quotas: the African Group, seven seats; the Asia-Pacific Group, seven seats; the Latin American and Caribbean Group, six seats; the Group of Western European and other States, four seats; and the Eastern European Group, four seats. Each group selects its own experts within its quota, aiming for a balanced representation of all the specialties needed for the Commission's work.

I would also like to comment on the potential arrangements for further work. At the very beginning of the discussions on the election mechanism, I suggested narrowing the discussion (to one or more representatives from the regional groups), which would have made the negotiation process easier; but that idea was opposed by the secretariat as well as all regional groups. I can tell you from experience that this process must be inclusive and transparent; otherwise, the case may arise where a seemingly harmonized approach will be completely blocked, as one group has done more than once.

The most recent meetings of the working group in December 2021 confirmed the intention of States to return to the discussion in the current session to reaching a consensus in accordance with the Council's decisions.

In reviewing this entire journey, I would especially like to thank the Latin American and Caribbean Group, the African Group and the Asia-Pacific Group for their constructive work and sincere desire to find a compromise.

Given the intention of certain delegations to "withdraw" my candidacy as facilitator, I would like to draw attention to the following.

I regret to have to say that we have all just been wasting our time here. Contrary to the approach agreed upon by the Council at the December 2021 session, during the week and a half of the current session, instead of working out a mechanism for electing Commission members, the Bureau of the Authority has been seeking a way to get rid of the facilitator on the sole ground that he is Russian.

I would like to ask, what prevented you from at least trying to work in parallel to solve a practical problem that is important to everyone? The desire of individual countries to politicize and bring their anti-Russian views to the platform of a specialized international organization was so strong that all the delegations present

here have spent almost the entire session and the corresponding budgets of their countries on this. The progress made within the group is the basis for further discussions. In this regard, I am willing to provide all available materials to those who will pursue this issue further.

Vladislav **Kurbatskiy**
