



## Council

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### Twenty-seventh session

Council session, part II

Kingston, 18–29 July 2022

Agenda item 6

### Election of members of the Legal and Technical Commission

#### **Letter dated 8 July 2022 from the Permanent Representative of the Russian Federation to the International Seabed Authority addressed to the Secretary-General**

I am writing to draw your attention to the fact that one of the priority issues at the upcoming second part of the twenty-seventh session of the Council of the International Seabed Authority is the elaboration of the election mechanism of the Authority's Legal and Technical Commission.

Under the decision of the Council relating to the election in 2022 of members of the Legal and Technical Commission (*ISBA/27/C/20*), the appointment of representatives of each regional group to the respective informal contact group convened by the President of the Council is carried out on the basis of consensus. However, no agreement on the issue was reached with the participation of the Russian Federation.

In that regard, the Russian Federation would consider it necessary to ensure the prompt publication on the website of the Authority of a document submitted by the Russian Federation on the lack of consensus in the Eastern European Group and consideration of a mechanism for the election of the members of the Legal and Technical Commission (see annex), under item 6 of the Council's agenda.

*(Signed)* Sergey Petrovich



**Annex to letter dated 8 July 2022 from the Permanent Representative of the Russian Federation to the International Seabed Authority addressed to the Secretary-General**

[Original: Russian]

**The lack of consensus in the Eastern European Group and consideration of a mechanism for the election of the members of the Legal and Technical Commission**

**Twenty-sixth session of the Council**

During the first part of the twenty-sixth session of the Council of the International Seabed Authority, held in February 2020, an understanding was reached on the urgency and need to adopt a new mechanism for electing members of the Legal and Technical Commission in response to the concerns of a number of States.

The Council requested V. Kurbatskiy (Russian Federation) to act as facilitator of the informal consultations on this issue. The agreed approaches for further work and the criteria that should form the basis of a future mechanism are indicated in Council decision [ISBA/26/C/9](#), an integral part of which is the working paper by V. Kurbatskiy.

Several rounds of talks were held during the intersessional period, including an exchange of written comments. In particular, between March 2020 and October/December 2021, an informal working group reviewed three drafts of the mechanism prepared by the facilitator.

Owing to the coronavirus disease (COVID-19) pandemic, the Council did not meet as scheduled, and the Council's twenty-sixth session did not end until December 2021.

Prior to December 2021, it had been understood that another round of written comments would not be opened in order to focus on discussing the specific mechanism proposed by the facilitator.

At the conclusion of the Council's twenty-sixth session in December 2021, an informal working group met to discuss two drafts: the facilitator's draft and a draft pushed through during the discussions by a member of the Group of Western European and other States.

Following the consideration of several of the facilitator's drafts, clear progress and convergence was noted in the positions of a wide range of participants in the informal working group. The Council unanimously asked V. Kurbatskiy to submit another draft and to report on the functioning of the informal working group to the twenty-seventh session of the Council.

**Intersessional period, January–March 2022**

As became clear during the Council's informal meetings at its first session in March 2022, during the intersessional period the facilitator had received another draft on the mechanism from another representative of the Group of Western European and other States.

The Russian Federation was among the Council members guided at this time by an understanding that written comments would no longer be sent and was expecting the discussion of an updated facilitator's draft.

### **First part of the twenty-seventh session of the Council**

Following the opening of the relevant agenda item, the Chair did not give the floor for the facilitator's report but made a personal proposal to change the modalities of work on the mechanism for electing members of the Legal and Technical Commission.

Owing to the planned departure of V. Kurbatskiy, the March session was his last as facilitator. However, valuable time – a week of meetings – was lost. The informal working group never met.

On the penultimate day of the session, the Council resumed its consideration of agenda item 6, "Election of members of the Legal and Technical Commission", and took note of the facilitator's report without objection or comment (issued as document [ISBA/27/C/24](#)).

An informal discussion of an alternative mechanism on Thursday was thwarted. On the last day of the session, the Council met without simultaneous interpretation and in the absence of a printed draft decision, but ended by adopting decisions without objection.

### **Absence of representatives of the Eastern European Group**

Decision [ISBA/27/C/20](#) was adopted and provides for the establishment of an informal contact group composed of representatives from each regional group, as agreed by consensus within the respective regional group.

In this connection, we note that no consensus was reached within the Eastern European Group (Russia, Poland and the Czech Republic), despite the flexibility of the Russia and the three (at least) different options proposed. Notably, the latest letter from the President was received on 28 April 2022 and stated that there was no consensus. No further attempts have been made to make progress (members of the Russian delegation are available as contacts).

Within the meaning of the decision, the Eastern European Group is not represented in the informal contact group.

We remain convinced that the President of the Council, who is tasked with convening the discussions, has no right to represent the Eastern European Group.

According to the general practice of international organizations, and of the International Seabed Authority in particular, the President does not have the right to represent his or her own country for the duration of the presidency. This is confirmed by the Council decision [ISBA/27/C/20](#), which appointed the President personally, not his State of citizenship.

### **Further work**

We note the need for all members to abide by the decision of the Council of the International Seabed Authority.

In our opinion, consideration of such an important issue as the mechanism for electing members of the Legal and Technical Commission should be open-ended and as transparent and inclusive as possible.

In order to reach a consensus, we propose the following:

- To discuss the issue within the Council's format;
- To establish representation of the Eastern European Group in the informal contact group in accordance with Council decision [ISBA/27/C/20](#);
- In the absence of progress on this issue, to adopt effective working methods.