SEABED COUNCIL, AFTER EXTENSIVE DEBATE, TAKES NOTE OF LEGAL & TECHNICAL COMMISSION'S REPORT

As the eleventh session of the International Seabed Authority continued in Kingston today, the 36-member Council, after extensive discussion, took note of the report of the Legal and Technical Commission on its work during the session.

The report was presented by the Chairman of the LTC, Dr. Baïdy Diène (Senegal) who, in his opening remarks, called for improved co-ordination between the Commission and the Authority to allow the expert body to be of greater service.

Delegations praised Trinidad & Tobago on that nation’s announcement of a US$10,000 contribution to the voluntary trust fund which facilitates the participation of members from developing countries in the meetings of the Commission and the Financial Committee.

The Commission’s report (document ISBA/11/C/8) covered a range of issues including the annual report of the seven contractors prospecting for polymetallic nodules in the international seabed Area; a report on a workshop on polymetallic sulphides and cobalt-rich crusts and an update on progress with the geological model for the Clarion-Clipperton Zone, as well as the Kaplan project on the study of the biodiversity in the Clarion-Clipperton Zone.

The Commission met a week before the start of the Authority’s two-week eleventh session on 15 August, holding its discussions in private. It elected Lindsay Murray Parson (United Kingdom), as Vice-Chairman, on the understanding that Mr. Parson will serve as Chairman at the twelfth session in 2006.
Annual reports of contractors

The Commission said that all the seven contractors had submitted reports which showed improvements in both form and content from previous years. It recommended that future reports should also contain information and references to relevant documents and scientific publications that had arisen as a result of activities under the contract.

The Secretariat should receive all of the information referred to in the contractors’ reports, including maps, charts and graphs, as well as results of tests, observations, measurements, evaluations and analyses of environmental parameters, as provided for in the relevant section (10) and annex (4) to the standard clauses for exploration contracts.

Contractors could claim, as part of development costs, any actual and direct exploration expenditures incurred by them. The Commission, therefore, recommended that certified and audited statements provided by contractors should give a clear indication of such expenditures.

The Commission noted that the year 2006 will mark the end of the first five-year programme of work since the contracts were first issued. It would therefore be an opportunity for the contractors to provide a comprehensive account of the work they had carried out, the results achieved and the expenditures incurred by them during the period. The account should be additional to the 2005 annual report of the contractors, the Commission added.

The contractors are: Deep Ocean Resources Development Ltd. (DORD), the Government of the Republic of Korea, China Ocean Mineral Resources Research and Development Association (COMRA), State Enterprise Yuzhmorgeologiya (Russian Federation), Interoceanmetal Joint Organization (IOM) l’Institut francais de recherche pour l’exploitation de la mer (IFREMER), and the Government of India.

New draft regulations

The Commission drew attention to document ISBA/11/C/5 in which it had addressed environmental considerations in the draft regulations for prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts. It considered that it would be useful to provide additional information to the Council explaining why it had placed greater emphasis in the new draft regulations on the protection and preservation of the marine environment as compared to the regulations for the polymetallic nodules adopted in 2000.

The Commission’s report referred to the application for approval of a plan for exploration for polymetallic nodules submitted by the Federal Republic of Germany represented by the German Federal Institute for Geosciences and Natural Resources. A
separate report with the Commission’s conclusions and recommendations (document ISBA/11/C/7) was presented to the Council on Monday.

The Commission took note of reports submitted by the Secretariat contained in documents ISBA/11/LTC/2 and ISBA/11/LTC/1 dealing respectively with the workshop on polymetallic sulphides and cobalt-rich crusts, and an update on progress with the geological model of the Clarion-Clipperton Zone and on the Kaplan project.

On other matters, the Commission noted that its technical work was becoming more and more specialized in nature and recommended that the Council draw the attention of States parties to the issue so that experts with the relevant background are nominated as candidates in the next election of members of the Commission in 2006.

Noting the importance of the voluntary trust fund which facilitated the participation of its members from the developing countries in its work, the Commission expressed concern that the fund would soon be exhausted, and supported the need for its replenishment. It said consideration should be given to such members to apply directly for assistance from the fund in their capacity as individual experts, without the need to go through their respective governments.

Finally, the Commission requested that its agenda for the next session should include an item for them to consider environmental issues in a broader context within the scope of its mandate. It had established an open-ended Environmental Working Group to be coordinated by Ms. Frida Maria Armas Pfirter and requested the Secretary-General to identify a staff member to be involved in this work. It suggested that due to recent changes in the metal market and technological advances, the Secretariat should consider convening in the near future a workshop on the possibility of commercial mining production in the international seabed Area.

**Discussions of the LTC report**

One of the main issues in the debate was the use and administration of the voluntary trust fund which facilitates the participation of Commission members, as well as those on the Finance Committee from developing countries in their meetings. In its report, the Commission suggested that consideration should be given in allowing members to apply directly for assistance from the fund, without going through their respective Governments as at present.

While Fiji voiced its support for the recommendation, The Netherlands maintained that the fund had been established to assist States which had difficulty financing the participation of their nationals, and as such, the governments of those States should apply for the assistance when necessary. Any other procedure would contradict the recommendations of the Finance Committee. Argentina, Jamaica, Portugal, the Russian Federation, the United Kingdom, and the United States were among the members who supported that view.
The representative of Trinidad and Tobago reminded the Council that the fund was a means to an end, and was created to “promote an appropriate balance of interests in the deliberations of the Legal and Technical Commission and the Finance Committee.” In light of that purpose, he said, and as a commitment to the ideals and principles of the Authority, his Government had decided to make a contribution of $10,000 to the voluntary trust fund. He hoped that other members in a position to do so would follow suit. Argentina, Brazil, Jamaica and Nigeria applauded this action by Trinidad and Tobago. (Nigeria announced a pledge of $5,000 to the trust fund at a meeting of the Authority’s Assembly last Monday).

The Commission’s report also called for contractors to provide a summary of activities and expenditure for the first five-year programme of work which comes to an end in 2006. This summary would be in addition to the 2005 annual report required of the contractors. France, supported by the Russian Federation, pointed out that this requirement represented new legal obligations that were not provided for when regulations governing polymetallic nodules were drafted and adopted. China agreed with this position, saying that the reports on expenditures contained in the contractors’ annual reports should be considered valid.

A number of delegations requested some clarifications with respect to the Commission’s decision to establish an “open-ended environmental working group” to consider environmental issues in a broader context. France said the concept was very vague, and called for a better definition of the purpose of the group. Japan and the United States agreed with France. Canada said that such a group should be set up in a way that would benefit all members of the Council.

**Secretary-General’s response**

Responding paragraph-by-paragraph to issues presented by delegations during discussion on the LTC report, Secretary-General Nandan said he was impressed by the level of detail in reports from contractors. On paragraph 12 of the LTC report which called for a comprehensive account of work done by contractors for the first five years of their contracts, he said discussions would need to be held with them to address issues such as the exploration expenditure summary.

On the question of an increase in the number of members of the LTC participating in workshops run by the Authority, as mentioned in paragraph 28 of the report, the Secretary-General noted that up to US$60,000 in additional funds would be needed to accommodate 5 to 10 members of the Commission. He urged members to utilize workshop reports, technical reports and studies and other publications available on the Authority’s website and at its library.

Addressing issues concerning membership, participation and expertise in the LTC (paragraph 29), the Secretary-General agreed that it would be beneficial to have experts
with hands-on experience in marine geology, geophysics, oceanology, biology and even land-based mining to assist the work of the Commission. He said care must be taken not to overload the expert body with drafters who spend more time deliberating. The Council needed to consider the makeup of the Commission before the next election in 2006, bearing in mind that the membership was increased from 15 to 24 without prejudice to future elections.

Regarding the Voluntary Trust Fund, the Secretary-General expressed appreciation to Trinidad & Tobago for its announced contribution.

Clarifying issues concerning the open-ended environmental working group proposed by the LTC in paragraph 31 of its report, Mr. Nandan said the core group would not be open to all member States but to select participants who would participate in exchanging views and documents. He said a suggested workshop on the possibility of commercial mining production in the Area was a potential activity because there were no commercial activities taking place.

In his response to the comments of delegates, the Chairman of the LTC said the members never lost sight of the functions of the trust fund and had always followed the rules governing its use. He said the Commission, in its report, was expressing a wish that the soon to be exhausted Fund be replenished. He also thanked Trinidad & Tobago for its response to the appeal.

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