SEABED COUNCIL TAKES NOTE OF LEGAL AND TECHNICAL COMMISSION REPORT; CONTINUES DISCUSSION ON DRAFT REGULATION

The Council of the International Seabed Authority this afternoon took note of the report of the Legal and Technical Commission in which the expert body urges a logical and cautious approach in its development of regulations dealing with cobalt-rich ferromanganese crusts in the international deep seabed Area.

Presenting the report to the Council, this afternoon, Mahmoud Samy, Chairman of the Commission, said the consequences of making decisions at this stage on the draft text might lead to monopoly by one or two potential contractors or might otherwise constrain future development of the resources of the Area.

The Commission, which met in closed meetings from 2 to 10 July, also considered the following topics: annual reports of contractors; report of the Secretary-General on the periodic review of contractors’ exploration plans; and progress report on the geological model on polymetallic nodule deposits in the Clarion-Clipperton Fracture Zone.

On 3 July, the Commission elected Mr. Samy as its President with Sandor Mulsow Flores as Vice-Chairman.

The Council then began a detailed discussion of the report of the Legal and Technical Commission before taking note of it.

Regulations for cobalt-rich crusts

The Commission members suggested that any scheme for prospecting and exploration for cobalt-rich ferromanganese crusts should be reviewed after an initial period. The Authority should ensure that it received adequate data and information to enable it to make informed decisions on the basis of scientific advice, particularly regarding the protection and preservation of the marine environment.

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The Commission Chairman said that discussions of the draft text focused on two sensitive issues: the size of the area to be allocated for exploration and the progressive fee system. It was noted that the central issue with respect to the draft regulations was the system for allocation of exploration areas to potential contractors with the Authority. The establishment of a system for allocation depended on adequate knowledge of the nature of the resources. It also addressed the issue of a reserved area contribution or the offer of an equity interest in a joint venture agreement.

According to the Chairman, the Commission felt that the background information available was not sufficient for it to make recommendations to the Council on any given system for site allocation for prospecting and exploration. It therefore suggested that the Secretariat prepare a more specific economic assessment for its consideration.

**Annual reports of contractors**

The Commission evaluated the annual reports of the eight contractors for 2006. The contractors are Deep Ocean Resources Development Co. Ltd. (DORD), Yuzhmorgeologiya, the Government of the Republic of Korea, China Ocean Mineral Resources Research and Development Association (COMRA), Interoceanmetal Joint Organization (IOM), the Government of India, Institut Français de Recherche pour l’Exploitation de la Mer (IFREMER) and, for the first time, Bundesanstalt fur Geowissenschaften and Ruhstoffe on behalf of the Government of the Federal Republic of Germany (BGR).

It stressed the importance of the contractors structuring their reports in the format recommended by the Commission in 2002 (ISBA/8/LTC/2, annex). It was sometimes difficult for the Commission during its discussions to determine from the reports the actual work carried out during the reporting year. The contractors were requested to clearly indicate work done during the reporting period and work planned for the future. Units mentioned should accord with the International Systems of Units.

The Commission noted very large disparities in the reported amounts spent on exploration by each contractor. It recommended that the Secretary-General should take steps to clarify with individual contractors whether there was a need for adjustment of their programme of activities to take account of higher level of expenditure than originally envisaged.

The Commission finally emphasized the need for the contractors’ reported expenditure to be properly itemized to relate to the actual and direct costs of exploration established in the regulations.

**Secretary-General’s report on contractors’ plans**

The Secretary-General provided the Commission with a report on his consultations with contractors on the periodic review of their plans of work for exploration. He informed the Commission that each of the contractors had submitted a five-year summary of the work it had carried out, the results obtained and their future programme of activities for a further five years.
The Secretary-General informed the Commission that he would in due course write to each contractor on the incorporation of the revised programme of activities into their exploration contract in accordance with the Regulations. The Commission recommended that the Secretary-General seek further clarification from the contractors on the compliance of their programme of activities with the original plan of work for exploration.

**Geological model of the CCZ**

The Commission was informed that the project to establish a geological model on polymetallic nodule deposits in the Clarion-Clipperton Fracture Zone (CCZ) has entered its final phase. A final draft of the model, reflecting the suggestions of peer reviewers and internal reviewers, would be available by the end of 2007. The final output of the project, including a prospectors’ guide and a geological model, would be presented at an international workshop to be convened prior to the Authority’s fourteenth session in 2008.

**Discussion on the report**

The results of the evaluation of the annual report of contractors held the attention of the Council. Some delegates expressed concern at the lack of actual raw data from contractors and disparities in their expenditures. Argentina, supported by Kenya said the Authority must press contractors to provide solid and useful raw data. China said contractors were still in the discovery stage and suggested that their work and reporting would improve over time.

Jamaica supported the baseline study of the Area as a point of reference for future incidents that might occur. Such data would be of interest to contractors who would otherwise be blamed for future damage to the environment by natural causes, the representative of Jamaica said. On the importance of accurate reporting of expenditure, Brazil endorsed Jamaica’s call for proper cost analysis saying expenditure should be operational and relevant.

Delegations, including Argentina, China, and Brazil supported the Commission’s request to hold an intercessional meeting to adequately prepare for the annual session. Poland said the Authority should consider offering financial support to allow members of the LTC to meet in advance of the annual session.

In his comments, the Secretary-General said he would act on the suggestions of the Commission by writing contractors to request more detailed accounting, and details on variations between proposed and actual expenditure. Contractors would be asked to formalize their programme for the next five years in accordance with Schedule 2 of their contract with the Authority. Responding to the observation by the Commission on cobalt-crusts in the Area, the Secretary-General said more specific economic assessment would be done by the Secretariat in due course.

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Mr. Nandan recalled that the idea of intercessional meetings of the Commission was discussed at length during the 12th session. He said the Secretariat had proposed a two-week meeting which would have to be financed through the Voluntary Trust Fund, to which he urged members to contribute.

The Chairman of the LTC said the Authority should not allow finance to hinder the important work of the Commission. “We have to find a way to overcome this bureaucratic burden,” he said.

**Draft regulations**

Following the discussion of the report of the Legal and Technical Commission, the Council continued its deliberations on the draft regulations for polymetallic sulphides. (ISBA/13/C/WP.1).

China proposed an amendment to the definition used for polymetallic sulphides in regulation 1, paragraph 3(d). According to the proposal, polymetallic sulphides should be defined as “one of the resources of the Area consisting of hydrothermally formed deposits of sulphide, oxides (hydroxides) and all of the related minerals which contain concentrations of metals including, inter alia, copper, lead, zinc, gold and silver”.

New Zealand and Fiji questioned the mention of the Area in the definition. Kenya felt the reference to “all of the related minerals” needed to be more specific. There was considerable debate about the use of the term “deposits” as against “resources” when referring to sulphides. China, responding to interventions from Spain and Poland, reasoned that treating sulphides as a resource would be in keeping with the definitions for polymetallic nodules in the regulations governing those minerals. The Council President suggested that the experts of the delegations engaged in the debate could meet informally to come to an agreement on the definition.

With regard to regulation 2, relating to prospecting, Australia proposed a sentence to be added to paragraph 2, which would now read:

“Prospecting shall not be undertaken if substantial evidence indicates the risk of serious harm to the marine environment. In any event, prospectors and the Authority shall apply a precautionary approach, as reflected in principle 15 of the Rio Declaration.”

Argentina, Mexico and Nigeria supported Australia’s proposal. Other delegations, including Germany and South Africa, supported the change in principle but suggested the removal of the phrase “in any event.” The Secretary-General suggested that the words “and the Authority” could be deleted since the Authority had no “enforcement role” at this prospecting stage.

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Australia explained that the proposal had been framed with reference to paragraph 1 of the regulation which stipulates that prospecting might only take place after the prospector’s notification had been recorded by the Secretary-General.

After further discussions and amendments, consensus was reached to change the regulation as follows:

“Prospectors and the Authority shall apply a precautionary approach, as reflected in principle 15 of the Rio Declaration. Prospecting shall not be undertaken if substantial evidence indicates the risk of serious harm to the marine environment.”

The Council will resume its consideration of the draft regulations on polymetallic sulphides tomorrow afternoon, Thursday 12 July.