SEABED COUNCIL CONTINUES DISCUSSION OF SIZE AND COMPOSITION OF AUTHORITY’S EXPERT BODY – THE LEGAL AND TECHNICAL COMMISSION

The Council of the International Seabed Authority, meeting this afternoon in Kingston, continued its discussions of possible changes in the procedure for electing members of its expert body - the Legal and Technical Commission (LTC).

The discussions centred on the desirability of continuity in the membership of the Commission, an issue raised in a Secretariat Note related to the functioning of the LTC (ISBA/16/C/3). At the Council meeting on Thursday, April 29, Sudan had agreed to prepare a proposal in an effort to address the issue. The proposal reads as follows:

1. The Members of the Commission shall be elected for 5 years and may be re-elected once, provided, however, that of the Members elected at the first election, the term of (12) members shall expire at the end of 3 years and the terms of the (13) remaining Members shall expire at the end of 5 years.

2. The Members of the Commission whose terms are to expire at the end of the above mentioned initial period of (3) and (5) years shall be chosen by lot to be drawn by the Secretary-General, immediately after the first election.

3. The Members of the Commission shall continue with their duties until their places have been filled. Though replaced, they shall finish any proceedings which may have begun before the date of their replacement.

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Bangladesh referred to Article 163 paragraph 2 of the Convention which states that the Commission shall be composed of 15 members and that the number may be increased by the Council “having due regard to economy and efficiency.” The representative was wary of making any changes that would go against the ruling set out in the Convention.

Furthermore, the Legal Counsel of the Secretariat pointed out that Article 163 paragraph 6 stipulates that “Members of the Commission shall hold office for a term of five years. They shall be eligible for re-election for a further term.”

Netherlands sought clarification as to whether the text represented a proposed amendment to the terms of office of the LTC members. The Russian Federation also sought explanation from the Legal Counsel on whether it would be legal for some members to have shorter terms than others. The United Kingdom suggested that the proposal was trying to fix something that was not broken because the LTC was functioning well under the current arrangements.

Canada said that the rules of the Convention were clear with regard to the election of members. It said it would not be legal to amend clear provisions of the Convention through a decision in the Council. Trinidad and Tobago pointed out that the Commission on the Limits of the Continental Shelf had no system of “staggering of terms of office” but had achieved continuity through the re-election of its members. He warned against any attempt to infringe the primary legal instrument of the Authority.

Indonesia agreed that if members were elected for five years with the possibility of re-election for a further five-year term, continuity would be assured.

The majority of delegations, including Chile, Cuba, Jamaica, Uganda, Senegal and Sudan, favoured keeping the current number of 25 members, given that from all accounts, the Commission was functioning efficiently with that number.

Council President Syamal Kanti Das (India), summarizing the discussions, reiterated the point that changing the terms of office of the members would constitute a basic legal problem. He emphasised that LTC members were nominated on the strength of their qualifications, competence and expertise and as such have “no need to be nurtured” as new members. He added that the Council was satisfied with the work of the LTC with 25 members in spite of absenteeism. The President proposed that for the 2011 election, a Commission of up to 25 members could be elected.

China, Germany, Senegal, and Viet Nam endorsed setting a maximum of 25 members, pointing out that depending on the number of actual nominations, the Commission could comprise less than that number.

In response to a question from India the Secretariat’s Legal Counsel referred to Rule 6 of the Rules of Procedures of the LTC concerning when meetings are open or closed. He said, meetings were closed when dealing with confidential issues such as contracts, but were open for discussions on general matters including draft regulations.

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On attendance at meetings of the Legal and Technical Commission, the Council president offered what he called a flexible proposal to revoke membership after two or three consecutive absences. In the Secretariat Note related to the functioning of the Commission, the summary of attendance at meetings of the expert body between 2003 and 2009 showed that the number of members present had never exceeded 21. South Africa agreed in principle with the President but said its delegation would prefer to seek clarification on the issues by examining the Commission’s Rules of Procedure.

The Council will meet in morning and afternoon sessions on Monday, 3 May to resume deliberations on the outstanding issues in the draft regulations on prospecting and exploration for polymetallic sulphides in the Area.

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