The Council of the International Seabed Authority took note of the report of the Legal and Technical Commission and considered the size and composition of that expert body, as the sixteenth session of the Authority continued in Kingston this afternoon.

The Summary Report on the work of the Commission during the sixteenth session was presented by its chairman Miguel dos Santos Alberto Chissano (Mozambique).

**Report of the Commission**

In its report to the Council (document ISBA/16//C7), the Commission said it commenced its work for the sixteenth session on 19 April, one week in advance of the meetings of the Council and Assembly. It was unable to achieve a quorum until 21 April 2010 owing to the volcanic eruption in Iceland which affected air travel.

The Commission therefore held unofficial meetings on 19 and 20 April, chaired by Sandor Mulso Flores during which the Commission members present in Kingston were able to undertake a detailed preliminary review of the annual reports of contractors with the Authority.

At its meeting on 21 April, the Commission elected Miguel dos Santos Alberto Chissano (Mozambique) as Chairman and Nobuyuki Okamoto (Japan) as Vice-Chairman.

Matters considered by the Commission during the sixteenth session included: Evaluation of the annual reports of contractors; completion of the training programme by the Federal Institute for Geosciences and Natural Resources of Germany; and review of the recommendations for the guidance of contractors for the assessment of the possible
environmental impacts arising from the exploration for polymetallic nodules in the Area issued under regulation 31 of the Regulations. The other topics were outcomes and recommendations of the project to establish a geological model for the Clarion-Clipperton Zone; presentation of the Code for Environmental Management of Marine Mining of the International Marine Minerals Society and other matters.

**Annual reports of Contractors**

The Commission’s report and recommendations concerning the annual reports of the contractors are contained in document ISBA/16/LTC/6. It also noted that contractors had only partially followed the recommendations for guidance on the reporting of actual and direct exploration expenditure issued by the Commission in 2009 (ISBA/15/LTC/7). The Commission also noted that there were significant variations in reported financial expenditure among contractors in respect of a similar item, for example, the cost per day of at-sea exploration. Moreover the Commission expressed its concern that some reported expenditures could not be classified as ‘actual and direct exploration expenditure’ as defined in the Regulations.

The Commission recommended that the contractors be requested to provide with their next annual report a revised historical breakdown of reported expenditure in accordance with the 2009 recommendations. It also requested the Secretariat to prepare for the next session a detailed analysis of the reported expenditure of contractors against the recommended headings of expenditure set out in the 2009 recommendations, in order to enable the current Commission members to provide further guidance to the incoming Legal and Technical Commission on the treatment of such expenditure.

The Commission observed that the environmental and exploration work of the contractors continued to progress at a slow pace. It also expressed its concern that there was still lack of raw data being provided by the contractors in spite of numerous requests from both the Commission and the Secretary-General in view of the completion next year, for most of the contractors, of the 5-year period of the 15-year contract for exploration. The Commission requested the secretariat to prepare for its next session a detailed analysis of the exploration and environmental work carried out by the contractors to date.

**Federal Institute for Geosciences and Natural Resources of Germany**

The Commission took note of the report of the Federal Institute for Geosciences and Natural Resources of Germany on the completion of its training programme under Schedule 3 of its exploration contract (ISBA/16/LTC/5).

**Review of recommendations for guidance of contractors**

The Commission on 27 April adopted recommendations for guidance of contractors for the assessment of the possible environmental impacts arising from exploration for polymetallic nodules in the Area issued under regulation 31 of the Regulations contained in document ISBA/16/LTC/7. It was understood that the annexes to that document, which the Commission did not have sufficient time to consider fully, would remain provisional until it fully examined them in further detail at its next meeting in 2011.
Clarion-Clipperton Zone project

The Commission took note of the reports concerning the outcomes and recommendations of the project to establish a geological model for polymetallic nodule deposits in the Clarion-Clipperton Zone. It welcomed “this major achievement which would not have been possible without a great degree of cooperation from the contractors”. The Commission noted that the Geological Model for the Clarion-Clipperton Zone would be updated as more data was received. It welcomed the development of a similar project for the Central Indian Ocean Basin, which was expected to improve the resource assessment of polymetallic nodule deposits in the Area and guide future prospectors.

The Commission also took note of a presentation it received on the status of the Authority’s Central Data depository on marine mineral resources. It expressed its satisfaction with the development of the database, although some of its members also expressed their concerns about “erroneous and unnecessary indication of political boundaries in one of the datasets used as source map for the Authority’s database”. A request was made to the secretariat for necessary corrections which had since been made.

Presentation on Code for Environmental Management of Marine Mining of the International Marine Minerals Society

The Commission on 26 April 2010 received a presentation by Dr. P. A. Verlaan on the revised draft update of the International Marine Mineral Society’s Code for Environmental Management of Marine Mining. The presentation covered an overview of the Code’s concept and structure as well as the background of the Society of which Dr. Verlaan is an Executive Board Member.

The Commission said the presentation pointed out that the Authority and the Society could benefit from an unusual opportunity to put in place a framework for the environmentally and commercially responsible development of an emerging industry, which required regulatory predictability and minimization of risk in environmental matters. The presentation is summarized in document ISBA/16/LTC/2.

Other matters

Under “Other matters”, the Commission took note and expressed support for the Authority’s future work programme.

Proposal to seek advisory opinion from Seabed Disputes Chamber

The Commission also took note of the proposal before the Council to seek an advisory opinion from the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea on matters regarding sponsoring State responsibility and liability (ISBA/16/C/6).
(The proposal was submitted by the delegation of Nauru which said that while the application process was being finalized “differing opinions” arose from members of the Commission regarding the interpretation of provisions in the Convention and the 1994 Agreement relating to the implementation of the of Part XI of the Convention (General Assembly resolution 48/263) pertaining to the responsibility and liability of sponsoring States. The Nauru delegation said in its communication that it became apparent that clarification would need to be sought regarding those provisions).

The Commission stated that the “differing opinions” mentioned in the proposal as coming from the Commission’s members “are not stated in the Commission’s reports or in any other official document”. It added, “it is well stated that the applicants were the ones requesting the consideration of their application to be postponed due to the current global economic circumstances and other concerns”.

**Size and functioning of the Commission**

With respect to the size and functioning of the Legal and Technical Commission, the Commission agreed that it was able to function efficiently and effectively with 25 experts. It also agreed that there was a need to preserve as wide a range of disciplinary expertise as possible. It specifically noted the need for specialists in certain key disciplines including marine biology, marine geology, mining engineering, mining economics, and in legal matters. The Commission recalled that the Convention does not limit the size of the Commission, but on the contrary, enables its expansion.

**Discussion of Commission’s report**

Argentina, The Netherlands, Nigeria and Mexico commented on the concerns expressed by the Legal and Technical Commission (LTC) in paragraphs 6 and 7 of its report that contractors were not fully meeting their reporting obligations pursuant to the regulations on prospecting and exploration for polymetallic nodules in the Area.

Argentina said a detailed analysis of the reported expenditure by contractors, against the headings of expenditure set out in the Commission’s 2009 Recommendations, would be useful to the Council in future deliberations. The Commission’s report recommended an analysis by the Secretariat to enable it to provide further guidance to the incoming LTC on the treatment of such expenditure.

The Netherlands asked the Council to consider concrete actions that might be taken to signal its concerns for the inadequacies in the contractors’ reporting obligations and to ensure their compliance fulfilment with the Regulations in the future. Nigeria wondered whether sanctions might be needed to force compliance, while Mexico asked the Council to consider the procedure that would be followed to force contractors to provide adequate reporting.

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Speaking as a member of the Commission, Frida Armas-Pfirter (Argentina) said that the LTC would consider requesting more detailed reporting on environmental and exploration work next year when contractors’ programme of work will be reviewed. She said the Commission would then make recommendations based on the pace of the work and reporting of actual exploration.

Responding to concerns expressed by delegations, the Authority’s Legal Counsel said the regulations were clear with respect to the contractors’ reporting obligations, and that the Council had the right, after due process, to take appropriate action to ensure they complied. The Commission was proceeding systematically to conduct analysis of the information from contractors over a number of years.

The Council then proceeded to address agenda item 9 relating to the size and composition of the Legal and Technical Commission. The discussions were guided by a Note prepared by the Secretary-General in response to a request by the Council (ISBA/16/C/3). This Note outlines the procedures and time limits for submitting candidates for election to the Commission, and describes the process whereby the number of members had grown from 15 to 24 in 2001 and to 25 in 2006.

The document also provides a summary of attendance at LTC meetings from 2003 to 2009 and the financial implications of the increased membership: since 2004 the Voluntary Trust Fund has been used to support an average of six members per year at an average annual cost of approximately $31,000.

With regard to the composition of the Commission, members are required to possess “appropriate qualifications such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related fields of expertise”.

The Secretary-General’s note further stated that at the twelfth session (2006) the LTC, at the Council’s request, shared its experience on the expertise required for its effective functioning. The Commission’s response revealed a need to preserve as wide a range of disciplinary expertise as possible and noted the need for specialists in certain key disciplines such as marine biology, mining engineering and mining economics.

Another issue brought to light by the Secretary-General’s note was that of continuity in the membership of the Commission. Although members may be re-elected for a second term - and some have served two terms – at present there is no provision to ensure continuity of membership as a whole. This may lead to delays in producing recommendations for the Council to consider.

A number of delegations, including Chile, China, Egypt, Jamaica, and Viet Nam, thought the Commission was functioning very capably at its current size of 25, and efficiency was the most important consideration. China said attention needed to be focused on gathering the right expertise, noting that there was a gap in terms of mineral economics.
Addressing the fact that the LTC had never had more than 21 members in attendance, Spain suggested that holders of seats might be allowed to send alternates if they had difficulty in attending themselves. This idea was supported by the Russian Federation.

Argentina said it would be useful for the Council to have a breakdown of the LTC membership into categories such as professions and areas of scientific expertise. Responding for the Secretariat, the Legal Counsel explained that an analysis of this kind had been attempted but had proven complex because many of the members had various areas of expertise and interests. He said that there were currently five environmental scientists, five lawyers, as well as a number of oceanographers, geologists and engineers.

With regard to the election process, the United Kingdom suggested that when LTC elections became due in 2011, the Council should consider the number of nominations received; if the number “seemed reasonable”, past procedure should be adopted whereby all nominations were considered elected. Sudan was concerned about the continuity issue raised in paragraph 15 of the Secretary-General’s note and suggested that the procedure for electing members should contain wording to ensure that half of the current membership would be retained. Chile endorsed this idea and requested that Sudan’s proposal be circulated to Council members for consideration.

The Council will resume its consideration of the size and composition of the Legal and Technical Commission tomorrow, Friday, April 30 at 3 p.m.

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