COUNCIL CONSIDERS FINANCE COMMITTEE’S REPORT; DEBATES EXPLORATION CONTRACT ADMINISTRATION COST RECOVERY MEASURES; HEARS REPORT ON STATUS OF NATIONAL SEABED MINING LEGISLATIONS

Debate on a proposed fixed annual charge of $47,000 to be paid to the International Seabed Authority by exploratory contractors took up most of the Seabed Council’s work Tuesday afternoon as it considered the report of the Finance Committee in Kingston.

The sum would cover the costs associated with the Authority’s administration and supervision of contract between it and contractors engaged in prospecting and exploration in the Area.

The Council’s meeting began with a report by the Secretary-General, Nii Allotey Oduntan (Ghana) on the status of national legislation relating to deep seabed mining and related matters. Seventeen sponsoring states and other members of the Authority were listed in the report as having provided texts on laws, regulations and administrative measures they have adopted. The information was requested by the Council at its eighteenth session in 2012.

The report (ISBA/19/C/12) notes that as of 22 May 2013, the following countries had provided such information or texts as requested: China, the Cook Islands, the Czech Republic, France, Germany, Guyana, Japan, Mexico, Nauru, the Netherlands, New Zealand, Oman, the Republic of Korea, Tonga, the United Kingdom, the United States and Zambia. The report also states that a submission had been received from the South Pacific Commission on behalf of the Pacific Islands region.

Seabed Mining related National Legislation

The report adds that updated information will be posted on the Authority’s website: www.isa.org.jm/en/mcode/Natleg in response to suggestions by delegations.

China reported that its 1986 Mineral Resources Law was revised and adopted on 29 August 1996. A Marine Environmental Protection Law, adopted on 23 August 1982, and which took effect on 1 March 1983, was revised on 25 December 1999. China also said that an Administrative Regulation on the Prevention and Treatment of the Pollution and Damage to the Marine Environment by marine engineering construction projects was adopted on 30 August 2006. It went into force on 1 November 2006.

Cook Islands reported two instruments which had been enacted: the Seabed Minerals Act of 2009 and the Model Seabed Minerals Agreement of April 2011.

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Czech Republic has legislation on prospecting, exploration for and exploitation of mineral resources from the seabed beyond limits of national jurisdiction – Act No.158/2000 of 18 May 2000.

France responded to the request for relevant information in a Note verbale dated 22 March 2013 from its embassy in Jamaica. The Secretary-General’s report gave no details.

Germany said its Seabed Mining Act of 6 June 1995 (the Act) has been amended by article 74 of the Act of 8 December 2010 (Federal Law Gazette 1, p.1864). A Federal Maritime Responsibilities Act of 26 July 2002 (Federal Law Gazette 1, p.2876), has also been amended by article 4 of the Act of 23 June 2008 (Federal Law Gazette 2008 II, p.520).


Mexico said its report on the laws, regulations and administrative measures covering underwater mining was submitted to the Secretariat by its embassy in Jamaica on 21 December 2011. A guide for the presentation of environmental impact statements for the mining sector and analysis of gaps and omissions in the conservation of marine biodiversity in Mexican oceans, coasts and islands was submitted to the Secretariat by the Embassy of Mexico in Jamaica on 21 December 2011. Regulations of the General Law on Ecological Balance and the Protection of the Environment on Environmental Impact Assessment (Official Gazette, 30 May 2000) were reformed and updated 26 April 2012. A mining Law, Official Gazette, 26 June 1992, was amended on 28 April 2005.


Oman has a legal instrument which regulates oil and gas exploration - Royal Decree No. 2011/8; and another - Royal Decree No.2003/27, and Ministerial Decree No. 011/77 - which regulates mineral exploration (Regulations of the Mining Act).

The Pacific-ACP States in the Pacific Islands region, including Nauru and Tonga, have in place a Regional Legislative and Regulatory Framework for Deep Sea Minerals Exploration. There is also a Secretariat of the Pacific Community – European Union Deep Sea Minerals Project of 18 April 2012.

The Republic of Korea sent its response in a Note verbale dated 2 April 2013 from its Permanent Mission. The Secretary-General’s report gave no details.

The United Kingdom reported on its Deep Sea Mining (Temporary Provisions) Act of 1981 (Isle of Man) Order 2000, No. 1112 which has been operational since 1 May 2000.

Zambia has an Environmental Protection and Pollution Control Act (No.12 of 1990); and (Amendment) Act 1999 (No.12 of 1999) – Cap 204 of the Law of Zambia.

In a section headed “Reciprocating States legislation”, the Secretary-General reports the following:

The Secretary-General’s report notes that the erstwhile Union of Soviet Socialists Republic on 17 April 1982 introduced Provisional Measures to Regulate the Activity of Soviet Enterprises relating to the Exploration and Exploitation of Mineral Resources of Sea-bed Areas beyond the Limits of the Continental Shelf.

The United Kingdom had a legal instrument, Deep Sea Mining (Temporary Provisions) Act chapter 53, 28 July 1981. A year later, it enacted, effective 25 January 1982, the Deep Sea Mining (Exploration, Licences) (Applications) Regulations 1982, No. 58. It also has a Deep Sea Mining (Exploration Licences) Regulations No.1230, which has been in operation since 3 September 1984.

The United States, an Observer State, has a number of legislations relating to deep seabed mining. They include: Deep Seabed Mining Regulations Affecting Pre-enactment Explorers (20 November 1980); Deep Seabed Mining Regulations for Exploration Licences 1980; Deep Sea Mining Regulations for Commercial Recovery Permits (6 January 1989); and Guidelines for Obtaining Minerals other than Oil, Gas and Sulphur on the Outer Continental Shelf of the United States Department of the Interior, Minerals Management Service (MMS), enacted 31 October 1994.

Fiji, France, India, Japan, and The Netherlands provided updates on the status of their respective legislation.

**Report of the Finance Committee**

The report of the Finance Committee was presented by Olav Myklebust (Norway) who was re-elected its Chairman. Five meetings of the Committee were held between 10 and 12 July 2013. The recommendations of the Finance Committee contained in its report both to the Assembly and the Council (document ISBA/19/A/7 and ISBA/19/C/11) are embodied in the Council draft decision on financial and budgetary matters (ISBA/19C/L.2).

**Cost of administration and supervision of contracts between the Authority and contractors**

The Committee reviewed a detailed analysis, provided by the secretariat, of the annual costs of administering and supervising the contracts, on the basis of which the Committee concluded that the annual standard cost for each contract amounted to $47,000. After receiving legal advice, the Committee concluded that, for legal reasons and as a matter of principle, overhead charges should not be applied retroactively.

**Status of the International Seabed Authority Endowment Fund and Voluntary Trust Fund**

The Finance Committee took note of the balance of the Endowment Fund in the amount of $3,428,932, as at 30 June 2013. It included accrued interest of $36,984 intended to be utilized to support the participation of qualified scientists and technical personnel from developing countries in marine scientific research and approved programmes. The Committee expressed its gratitude to the Government of Mexico for contribution of $5,000 made on 8 November 2012.

The Committee took note of the balance of the Voluntary Trust Fund in the amount of $144,452 as at 3 July 2013. It expressed its gratitude to the Government of Norway for the contribution of $150,000 made on 17 October 2012, and to the Government of China for the contribution of $20,000 made on 3 July 2013.

The Committee requested the Secretary-General to seek advice on the possibility of considering advances from the Endowment Fund to the Voluntary Trust Fund as grants.
Working Capital Fund

The Finance Committee took note of the status of the Working Capital Fund as at 30 June 2013, with advances of $525,870 out of a ceiling of $560,000.

Budget performance and Cost-saving measures

Filling the secretariat posts had been difficult, reported the Committee, as some qualified candidates had rejected job offers, primarily because spouses were not allowed to seek employment outside diplomatic missions and international organizations in Jamaica. The Committee invited the Secretary-General to initiate discussions on the issue with the Government of Jamaica and to report to it thereon at the twentieth session.

The Committee expressed its gratitude to the Secretary-General for the efforts being made to effect savings in the Authority’s budget. It welcomed the Secretary-General’s report on potential cost-saving measures and expressed its full support for his proposed initiatives outlined in the report.

Debate on the report

Delegations including Argentina, Brazil, China, the Republic of Korea, and the Russian Federation wanted to know how the sum of $47,000 for a fixed overhead charge was determined. Further, Russia requested access to documents used by the Finance Committee in the preparation of its report.

Nigeria expressed concern that a fixed cost could be regarded as punitive as all contracts may not be equal in size and scope of work. Brazil favored a fixed sum for contracts processing and administration which, according to the representative, was standard international practice. Most delegations, including France, Japan, and Spain agreed with the recommendation of the Finance Committee that it would not be prudent to apply the overhead charges retroactively.

China proposed an amendment to the five paragraph draft decision with the addition of 4bis, after paragraph 4 to read:

“Decides that the overhead charges may be claimed by the contractor as part of the contractor’s development cost incurred prior to the commencement of commercial production.”

President of the Council, Tobias Pierlings (Germany) said debate on the overhead charges would resume on Thursday, 18 July, and invited delegations wishing to submit proposals on the issue to do so in writing by Wednesday, 17 July.

On the question of qualified candidates rejecting job offers due to spouses not being allowed to seek employment outside diplomatic missions and international organizations in Jamaica, the representative of the host country said Jamaica remained open to discussing the concerns raised. Jamaica said a waiver is in place and may be granted upon request, but the representative said that no such requests have been received in recent years. Jamaica’s stated willingness to have the matter resolved to facilitate the work of the Authority was welcomed by Brazil, Cameroon, China, Japan, and Trinidad and Tobago.

On its resumption on Wednesday morning, the 36-member Council will consider the report of the Legal and Technical Commission, the Authority’s expert body, which held two sessions for the first time this year - 4 to 6 February and 8 to 15 July.