COUNCIL HEARS LTC REPORT ON ACTIVITIES OF CONTRACTORS

The Council of the International Seabed Authority, meeting in Kingston this morning, began consideration of the report of the Legal and Technical Commission, delivered by its Chairman Russell Howorth (Fiji).

The report is in seven sections, with two annexes (ISBA/19/C/14). It covers a range of issues such as activities of contractors; environmental implications of activities in the Area; regulatory activities of the Authority; applications for approval of plans of work for exploration in the Area and its conclusion. Annexed to the report are the Commission’s decision relating to the methodology for review of annual reports of contractors, and general comments on the reports as well as on their five-year programme of activities.

At the start of the session Brazil put forward a proposal to have the Commission’s report presented in closed session with only Observers to the Authority’s Assembly being allowed to attend. Providing reasons for his proposal, the representative from Brazil said the Commission held closed meetings to produce its report which contained confidential information in some sections.

Reacting to the proposal several delegations, including Fiji, the Republic of Korea, the Russian Federation, Trinidad and Tobago, and Uganda expressed reluctance to move into private session to hear the LTC’s report. Fiji wanted to know whether the representative from Brazil was seeking to set a precedent since all previous reports of the Commission were considered in open meetings of the Council. The Republic of Korea’s delegate described the report as containing valuable information relevant to the common heritage of mankind. This point was echoed by Uganda whose representative wondered whether the closed meeting proposal was “filibustering” as no valid reason was put forward to support a closed meeting. He urged delegations to focus on more substance rather than on technicalities during meetings of the Council. Brazil withdrew its proposal.

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LTC Report on Activities of Contractors

The Commission’s report was presented by its Chairman, Russell Howarth (Fiji), section by section to allow the Council to discuss certain substantive sections in detail. This morning’s meeting focused on Section II of the report: Activities of contractors; and on the two Annexes of the report. The annexes contained a decision by the Commission relating to the methodology for review of annual reports of contractors (Annex I) and general comments on contractors’ annual reports and on their five-year programmes of activities (Annex II).

(The Commission considered six new applications for approval of plans of work for exploration and completed its recommendations in respect of two of them. The applicants are: China Ocean Mineral Resources, Research and Development Association (COMRA); Japan Oil. Gas and Metals National Corporation (JOGMEC); Ministry of Natural Resources and Environment of the Russian Federation; UK Seabed Resources Ltd; (UKSRL); Government of India; and Ocean Mineral Singapore Pty Ltd., (OMS)).

With regard to the status of contracts for exploration, the Chairman noted that three contracts for exploration were pending signature and suggested that those contractors could be guided by the newly issued recommendations relating to training programmes under plan of work for exploration (ISBA/19/LTC/CRP.7/Rev.1). The remaining three applications would be taken up as a matter of priority at the Commission’s next meeting in 2014.

In the light of the increased number of annual reports to be examined, the Commission took the decision to streamline its working procedures. The new procedures included reviewing the annual reports at its first meeting each year to allow members of the Commission’s working groups to prepare their work in advance of the annual session. Additionally, as a result of a request made to the secretariat by the Commission in February, annual reports had been made accessible through a secure website to designated members of the Commission allowing them to work remotely. The Chairman also noted that the secretariat had contracted a consultant to conduct a technical evaluation of the reports, including a detailed analysis of the contractor’s activities, which assisted the work of the Commission.

On the annual reports of contractors, Mr. Howarth reported that all 11 contractors submitted their annual activity reports for the 2012 period in a timely manner, following the general template prescribed by the Legal and Technical Commission in 2002 (ISBA/8/LTC/2). However, there were inconsistencies in the quality of the reports. As such, the Commission invited the Secretariat to request the contractors to comply with the data submission requirements set out in ISBA/18/C/20.

The Chairman noted that six additional contracts had either been signed during 2013 or were currently in the final stages of negotiation and thus the first reports from those contractors would be forthcoming in subsequent years. Six more applications were currently being considered. He stated that some 17 annual reports would need to be considered in 2014. By 2015 there might be as many as 23 annual reports to be considered, which represented an increase of more than 100% in the Commission’s workload.
Another point raised in Annex II involved the issue of the process of evaluating contractors’ reports, which the Commission described as a subjective exercise with no formal criteria against which to measure a contractor’s progress. It was recommended that a series of key “contractor milestones” be devised by the LTC to be included as part of the work plan of new applications in order that they might be incorporated into future contracts.

Section B of Annex II contained general comments relating to the five-year programme of activities of contractors. The report noted that the programmes appeared to contain different levels of expectation for different contractors. Technology was changing the way data was processed, the Chairman said, adding that it was becoming increasingly clear as the Commission met on an annual basis that a more strategic and streamlined approach to receiving and examining data was needed. Minimum requirements should be set for all contractors, including a more explicit breakdown of activities against which the contractors should report. A supplementary implementation plan providing details of progress against each contractor’s timeline would be useful. Furthermore, contractors should provide a detailed account of how they plan to achieve the thresholds in identifying a first-generation mine site, finalizing baseline environmental data, developing a mining system prototype and setting in place processing arrangements by the end of their respective contracts.

After the presentation from the Legal and Technical Commission Chairman, several delegations took the floor to commend the Commission on its work. Japan, as well as Brazil, Cameroon, and Nigeria commended the establishment of the secure website to facilitate the work of the Commission. Trinidad and Tobago observed that such a mechanism had been successfully implemented by the Commission on the Limits of the Continental Shelf.

Several delegations, including China, India, and the United Kingdom, expressed their agreement with the Commission about the need for a clear data management strategy and wanted to know what steps would be taken to achieving this as soon as possible.

Australia, Brazil, Japan, and the observer state of New Zealand, were among the delegations which expressed support for the need for a regulatory framework for activities in the Area to be informed by a series of key milestones, and asked when such a framework might be put in place. Both China and the United Kingdom stated that in working out any guidelines, it should be borne in mind that contractors would have certain expectations with regard to the contracts and should not be “taken by surprise” by the requirements.

India expressed concern that having two separate meetings of the Legal and Technical Commission was costly and not justifiable unless it guaranteed that more work could be completed in the allotted period.

Responding to comments and questions from members of the Council, Mr. Howorth said the Commission was seeking to establish a strategic framework for cataloguing intended programmes of work, for at least five years, with the objectives of assessing milestones and minimums. Responding to suggestions for a template for reports, the LTC Chairman said the
report format (ISBA/8/LTC.2) would be reviewed periodically by the LTC to ensure that it accounted for such variables as environmental data that might differ in regulations.

On questions concerning extension of contracts the Chairman said the Commission was considering how to manage the issue while providing advice to contractors in conjunction with the secretariat. He agreed that with suggestions that paragraphs 8 and 11 of Annex II were linked in terms of the thresholds at the end of exploration contract and plans for the mining phase. Contractors would be guided by section 11 of Annex 4 of the nodules regulation in providing information at the end of their respective contracts.

The Council will continue deliberations on the LTC report when it resumes meeting this afternoon in Kingston.