COUNCIL RESUMES DISCUSSION ON LTC REPORT AS NINETEENTH SESSION CONTINUES

Training and the outcome of applications for approval of plans of work for exploration in the Area were the two items debated as the Council of the International Seabed Authority resumed meeting in Kingston this afternoon.

The Chairman of the Legal and Technical Commission, Russell Howorth (Fiji), continued his presentation of the report (ISBA/19/C/14) highlighting recommendations for the guidance of contractors relating to the implementation of training obligations, selection of candidates for training, and applications for approval of plans of work for exploration in the Seabed Area.

The Commission, at its 8-15 July meetings, considered 23 recommendations for short-term and medium- to long-term implementation of the training and capacity-building obligations of exploration contractors. The report also included recommendation that the Council adopt as soon as possible interim recommendations for guidance for contractors on the implementation of training programmes. It also suggested standardizing the number of traineeships provided by the contractors, a training component and a minimum of one training place for each exploration cruise, and a training manager position in the secretariat.

According to the report, as at 30 June 2013, 45 applications from 19 different members of the Authority were received for eight training opportunities offered by three contractors. Eight candidates and an equal number of alternates were recommended for training by the Commission.

Brazil, Cameroon, China, Cook Island observer, Kenya, Trinidad and Tobago, and Uganda described the training report as encouraging in light of the fact that over the past 20 years, only 26 traineeships had been provided.

The representative of Cameroon called for the implementation of a strategic training programme that would include, among other things, a structure, guidelines for accountability and the selection of candidates, and a guarantee to build capacity, particularly in developing states. The Cook Island observer emphasized that unless candidates from developing states were offered special...
exemption or training was tailored at different levels they might not be able to benefit from training opportunities offered by the Authority. This position was supported by Kenya and Uganda.

Trinidad and Tobago applauded suggestions for a training manager position in the secretariat of the Authority. Nigeria said there were inconsistencies in the report and suggested that the selection of candidates for training should be more equitably based on the size of regions. China saw as important the selection of high quality candidates for training, development of a tracking system for candidates trained by the Authority, and the full utilization of talents once training was completed.

Responding to the issues raised by members, Chairman Howorth said that the approach to training involved more than linking training courses with the availability of cruises. The way to be more organized and structured about training, he suggested, was to have a specific staff member at the Authority’s headquarters dealing with the matter, but this option was subject to budget priorities at the secretariat.

The Chairman agreed with the remarks made by Cameroon regarding the implementation of a strategic training programme that would include a guarantee to build capacity, particularly in developing states. With regard to the statement by the Cook Islands observer, the Chairman said he saw room for considering both options put forward by the representative.

The Chairman also clarified a query from Nigeria concerning an apparent discrepancy between training figures reported in the Commission’s report and those reported in another document (ISBA/19/LTC/13) relating to recommendations on selection of candidates for the training programmes. He explained that as at 30 June 2013, the Secretariat had received 45 applications from 19 different members of the Authority for the eight training opportunities offered by China Ocean Mineral Resources Research and Development Association (COMRA) and Tonga Offshore Mining Limited (TOML).

With regard to the transfer of technology, the Chairman conceded that that matter had not been given strong emphasis, and undertook to find a way of incorporating it into the Commission’s discussions on training.

The representative of the Cook Islands wanted to know when other opportunities for training might be announced, while Jamaica expressed a concern about the capacity of the Secretariat staff and opportunities for them to receive relevant training in light of the increased activities in the Area. In his response, the Secretary-General disclosed that his annual report, which would be considered by the Assembly next week, contained a document on the restructuring of the Authority. This proposed restructuring was important, he said, given the changing nature of the work of the Authority. Cameroon pointed out that a system of inspection would be of vital importance for the Authority’s evolving needs.

In response to the request from the Russian Federation for more details on the progress of the periodic review of the plan of work for exploration of polymetallic nodules by the Government of India, the Secretary-General said that discussions with the contractor would be concluded soon after the Authority’s session.

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Applications for approval of plans of work for exploration

The Council then turned its attention to Section VI of the Commission’s report dealing with the six applications for approval of plans of work for exploration received from July 2012 to April 2013. At the February meeting, the Commission considered and made recommendations to the Council in respect of the applications for plans of work for exploration for cobalt-rich ferromanganese crusts as submitted by COMRA (ISBA/19/C/2) and JOGMEC (ISBA/19/C/3). At the July meeting, the Commission heard presentations of four applications submitted by the Ministry of Natural Resources and Environment of the Russian Federation, United Kingdom Seabed Resources Limited (UKSRL), the Government of India and Ocean Mineral Singapore Pty Ltd (OMS), respectively.

Chairman Howorth explained the Legal and Technical Commission’s procedure for considering such applications as follows:

- Step one – the Commission examines the application
- Step two – the applicant gives a presentation on the application
- Step three – members of the Commission ask questions and seek clarifications
- Step four – discussion takes place within the Commission on the various aspects of the application
- Step five - a list of supplementary questions is compiled based on submissions from Commission members. These questions are endorsed by the Commission as a body and sent to the applicant through the Secretariat.
- Step six – Applicant responds to the supplementary questions.

The Commission was not able to achieve consensus in recommending the approval of the plan of work submitted by the Russian Federation due to the formal objection of one member of the Commission. The Chairman informed the Council that the objection was based on reservation concerning the data supplied by the applicant and the methodology applied by the technical working group for calculating the commercial value of the two areas identified in the application (regulation 12.4, ISBA/18/A/11). He further stated that the Commission did not have time to complete its consideration of the remaining three applications by UK Seabed Resources Ltd., the Government of India and Ocean Mineral Singapore Pty Limited. These four applications would be taken up as a matter of priority at its next meeting in February.

The United Kingdom expressed its disappointment with the outcome of the Legal and Technical Commission’s consideration of the applications. The representative said that responses were provided in a timely manner by the United Kingdom applicant but through lack of time, they had not been considered. He said it was important for the Authority to be seen as a competent regulator of this new industry of deep seabed mining and as such applications must be dealt with in an expeditious manner.
Referring to paragraph 28 of the Commission’s report, India pointed out that the Legal and Technical Commission met behind closed doors and it was not for the Council to be aware of the specific contribution of any of its members. Therefore, the representative said, paragraph 28 should be interpreted as a collective decision, and the reference to a formal objection made in the meeting by one member should be omitted from the report.

The Russian Federation expressed serious concerns and a sense of frustration that in one week, the Legal and Technical Commission could not take a decision on any of the four applications given that in the previous year it had considered five applications. Moreover, the representative added, the issue of the methodology for calculating the commercial value of the two areas “had nothing to do with the applicant.” He pointed out that the application process was very costly and time-consuming and warned that the fact that one member of the Commission could arbitrarily block an applicant was a serious precedent. The speaker also asked the Chairman to indicate whether the Commission would have been able to complete its work if the Council had allowed it to have one more meeting.

While it understood the disappointment about the outcome of the Legal and Technical Commission, Japan warned against urging the Commission to complete its work too speedily because it needed to consider each application carefully. The representative suggested that the work plan could be adjusted to balance the burden of work between the February and July meetings.

China said it was surprised that the Commission was not able to complete its work on all applications. There needed to be a balance between finding consensus and making progress.

Brazil drew attention to Rule 44 of the rules of procedure of the Legal and Technical Commission, which reads as follows:

\textbf{Rule 44}

Decision-making by consensus and voting

1. As a general rule, decision-making in the Commission should be by consensus.
2. If all efforts to reach a decision by consensus have been exhausted, decisions by voting shall be taken by a majority of members present and voting.
3. For the purpose of this rule, "consensus" means the absence of any formal objection.

The representative wanted to know whether the Commission had considered all options allowed under this rule.

Chairman Howorth responded that every member of the Legal and Technical Commission was extremely disappointed that the Commission was not able to complete its consideration of the applications. Rule 46 required that a reason for referral must be given and that had been done. He reminded the Council that the Russian Federation was the first applicant for cobalt-rich crusts, and therefore the calculation methodology had elements of a new approach.
The Chairman further pointed out that the Legal and Technical Commission member had asked that the objection be recorded, and that had been reflected in the report. He said that he had been prepared to go to a vote but “was discouraged from doing so in the interest of the normal working procedures of the Authority.” In response to the question from the Russian Federation, he said he could not say whether one more meeting would have made a difference in terms of the completion of consideration of any application.

The Council will meet again tomorrow, 18 July, to resume consideration of the LTC report and continue debate on the Finance Committee report that was first presented to Council on Tuesday (16 July).

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