COUNCIL COMPLETES REVIEW OF REPORT OF LEGAL AND TECHNICAL COMMISSION; LACK OF QUORUM THWARTS PROPOSAL TO RE-CONVENE COMMISSION

As the nineteenth session of the International Seabed Authority continues in Kingston this morning, its 36-member Council took note of the report of the Legal and Technical Commission, the Authority’s expert body, after two days of deliberations.

The summary report of the Commission (ISBA/19/C/14) was presented by its Chairman, Russell Howorth (Fiji) who highlighted the remaining sections, including Environmental implications of activities in the Area, Regulatory activities of the Authority, and other matters. In its conclusion, the report noted that due to an overwhelming workload and inadequate time the Commission was unable to complete its agenda.

Prior to the start of the meeting, Council President Tobias Pierlings (Germany) read a tribute to mark the 95th birthday of the former South African President, Nelson Mandela. He noted that the United Nations today marks Nelson Mandela International Day, honouring his dedication to public service, social justice and reconciliation. The celebrations included an informal General Assembly of the United Nations in New York in honour of Mandela.

In other matters, the Secretary-General, Nii Allotey Odunton (Ghana) presented a report concerning the credentials of members of the Council.

Before resumption of the debate on the report of the Legal and Technical Commission, the Russian Federation made a proposal for one more meeting of the Commission to complete review of an application from its Ministry of Natural Resources and Environment, for approval of a plan of work for exploration in the Area. This application was one of four for which the Commission gave preliminary consideration in closed sessions, and received responses to a list of questions it submitted to each applicant.

In its report, the Commission said it could not 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. It said there was also no time to complete its consideration of the remaining three applications by UK Seabed Resources Ltd., the Government of India, and Ocean Mineral Singapore Pty Ltd. (being considered in that order). The Commission therefore decided to defer consideration of all four applications, to be taken up as a matter of priority at its next meeting in 2014.

**Debate on proposal for special LTC meeting**

Delegations, including Argentina, Australia, Brazil, Chile, China, Fiji, Jamaica, Republic of Korea, Singapore, and the United Kingdom, said they understood the frustration reflected in the proposal by the Russian Federation.

Argentina, Chile, Republic of Korea, Senegal, and Trinidad and Tobago agreed that the deliberations on the issue should be guided by the Rules of Procedure of the Legal and Technical Commission concerning the frequency of meetings, convening of sessions, and notification of members to secure a quorum. Considerations would also include the nature of the additional meeting – whether it would be called on an emergency basis, and the costs that would be incurred. Brazil suggested that if the Council agreed to re-convene the LTC the meeting should be recorded as an exception.

India, Jamaica, Nigeria, and the United Kingdom – with support from Australia – agreed that all four applications for approval of plans of work in the Area should be considered if the Commission held a special meeting. Japan urged the Council to ask the Secretariat to establish whether enough members were still available for a quorum.

Resuming after a 30 minute recess, the President of the Council said there appeared to be no consensus on the proposal by the Russian Federation. The Secretary-General informed members that a quorum could not be established during the break, and he urged the Council to allow the Commission to meet as scheduled next year to complete the applications. “I believe we have begun to establish an excellent expert and legal body in this Authority, and we should allow it to work to the benefit of all”, Mr. Odunton said. He urged the representative of the Russian Federation to withdraw its proposal, which he did.

**Environmental Implications of activities in the Area**

Continuing deliberations on the Commission’s report Cameroon, India, Mexico, New Zealand observer, The Netherlands, Trinidad and Tobago, and the United Kingdom, commended the LTC on the monitoring and reporting mechanism recommended for contractors in the assessment of possible environmental impacts arising from exploration of marine minerals, including polymetallic sulphides. It was agreed at the eighteenth session that the Commission would resumed consideration of these draft recommendations at its February meeting.

Mexico urged the Council to also consider application of the environmental plan of the Clarion-Clipperton Zone model to facilitate the monitoring and reporting mechanism. Brazil supported Mexico on the need for the Commission to articulate ways in which the Authority
would oversee the rights of Coastal States pursuant to article 142 of the Convention. China cautioned that recommendations for environmental impact assessment must be in line with regulations governing the mineral.

**Regulatory activities of the Authority**

Brazil, Mexico, The Netherlands, and the United Kingdom commented on the issue of monopolization of activities in the Area. The report noted that new models of business arrangements had begun to emerge that required the attention of the Commission. Such attention would include requirements for the alignment of the regulations. Brazil said there was nothing in the polymetallic nodules regulations to monitor monopolistic behavior. The Netherlands also noted that the alignment of the nodules regulations with crusts and sulphides was not complete. The United Kingdom said the practice of allotting blocks for exploration to consortiums of commercial enterprise, as had been done in the North Sea, should be encouraged.

Responding to comments by delegations, the Chairman of the Commission, Russell Howorth said the environmental guidelines would be updated based on monitoring results as soon as contractors began to use them. He said while the Commission agreed to make specific reference to monopolization in its report it also concluded that more work would be necessary on, for example, approaches and methods.

On the exploitation of nodules, the LTC Chairman said a substantial amount of time would be required to develop those regulations.

In the “other matters” section of the report, the Chairman said it had requested the secretariat to provide clarification and guidance on the scope and interpretation of the provisions of article 163, paragraph 8, of the Convention. (The article states, in part, that members of Commissions shall have no financial interest in any activity relating to exploration and exploitation in the Area). The Commission had also asked for clarification of rule 11 of each rules of procedure covering such financial interests in activities relating to exploration and exploitation in the Area. One reason for that request, the Chairman explained, was to determine how those rules, including rules 12 and 13, affected the issue of conflict of interest among members of the Commission.

The Council will resume its meeting in the afternoon to continue debate on the report of the Finance Committee and consideration of measures for recovery of the costs relating to the administration of exploration contracts with the Authority.