The Council of the International Seabed Authority, meeting in Kingston this morning, adopted a twelve-paragraph decision on the summary report of the Chair of the Legal and Technical Commission which was presented at its 17 July meeting.

Revised from a 32-paragraph document submitted by Brazil on the basis of comments and contributions by members of the Council, the draft decision (ISBA/20/C/L.10) is a streamlined consensus text formulated during informal group consultations on Monday, 21 July.

Brazil, who thanked delegations for helping to produce a more concise document for the Council to adopt, recommended that the paragraphs left out from the previous draft could be included in a report to the Assembly by the President of the Council – a point on which other delegations agreed. France said it would allow the decision to go forward but felt there were some paragraphs that were more suited for the President’s report.

The decision reads as follows:

By the draft decision, the Council requested the Commission “as a matter of urgency and as its priority” to formulate draft procedures and criteria for applications for extension of contracts for exploration, to be submitted to the Council at its 2015 session, in accordance with section 3.2 of the standard clauses contained in annex 4 to the Regulations. This was to be applied in a uniform and non-discriminatory manner to all requests for extension of contracts for exploration. The Commission’s text was to be made available in advance of the Council’s 2015 session.

The Council took note, with appreciation, of the summary report of the Chair of the Commission on its work during the twentieth session and requested the Commission to continue its elaboration of the exploitation regulations as a matter of priority. A draft framework was to be
made available to all members of the Authority and all stakeholders as soon as possible after the Commission’s February 2015 meeting.

The Commission was requested to consider, as appropriate, the submission by the Netherlands on environmental management plans and environmental impact assessments in the regulatory framework for mineral exploitation in the Area (ISBA/20/C/13) in the context of its work on the preparation of draft regulations for exploitation in the Area.

By the text, the Council called the attention of contractors to the issues raised and recommendations made by the Commission on their annual reports.

The Commission was asked to examine ways to ensure that training opportunities effectively considered the interests and needs of developing States, particularly the landlocked and geographically disadvantaged among them, in accordance with article 148 of the United Nations Convention on the Law of the Sea, and recommendations on training programmes embodied in plans of work of contractors and sponsoring States.

The Council requested the Commission to continue to work on issues related to the sponsorship by States of exploration contracts in the Area, with particular attention to a test of effective control, as well as with issues related to monopolization of activities in the Area, considering, in particular, the concept of abuse of a dominant position.

Furthermore, the Council requested the Commission to submit for its approval, not later than its 2016 session, draft procedures on the handling of confidential data and information, as provided for in rule 12 of its own rules of procedure. Its Secretariat was encouraged to continue their work, up to and beyond 2015, on the implementation of the environmental management plan for the Clarion-Clipperton Zone.

The Commission was encouraged to consider developing environmental management plans in other international seabed Area zones, in particular where there were currently exploration contracts, in line with the suggestion by the United Nations General Assembly in paragraph 51 of its resolution 68/70. All contractors were encouraged to make their environmental data readily and publicly available.

The Commission was asked to continue exploring initiatives to increase transparency and dialogue on the development of its work, in particular on issues of general interest to member States and other stakeholders of the Authority.

Finally, the Council also requested the Secretary-General to ensure that adequate time and resources continued to be made available to support the Commission’s work, especially on priority issues.

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The representative of the Netherlands drew attention to the statement of the President of the Council of the International Seabed Authority on the work of the Council during the nineteenth session (ISBA/19/C/18). Paragraph 17 of the report read, in part:

The Council further requested the Legal and Technical Commission to review the provisions of the three sets of regulations relating to the monopolization of activities in the Area and the option of offering an equity interest in a joint venture arrangement with a view to aligning all three sets of regulations in this respect, and to make a recommendation thereon for consideration by the Council at its twentieth session in 2014.

The Netherlands said the Council could either add this request as a paragraph in the current draft decision or the President could ask the Commission to report on the matter at the next session.

The Authority’s Legal Counsel said Netherland’s point was important and that the matter was mentioned in the summary report of the Commission in the context of issues relating to the operation of the Enterprise, in paragraph 34. He said the president’s report could emphasise the points raised by the Netherlands.

The Russian Federation said there was a translation error on the last line of paragraph 2 of the decision that changed the meaning in Russian and asked that it be corrected.

Fiji said it supported the 12-paragraph draft decision but needed clarification on the term “geographically disadvantaged” in reference to developing States in paragraph 6. Brazil noted that the term appeared in Part XI of the United Nations Convention on the Law of the Sea. More precisely, Trinidad and Tobago said the term appeared in Article 148 of the Convention – Participation of developing States in activities of the Area. The representative of Trinidad and Tobago said while his delegation would not want to change the current wording of the decision, he hoped that in future decisions the term “small Island developing States” could be included in language of decisions of the Council.

On the matter of future meetings of the Council, Brazil, supported by the Netherlands, felt there should be an option for the regulatory body of the Authority to convene more frequent meetings when necessary, particularly to deal with pending new regulations.

Before closing the final meeting for the twentieth session, President of the Council, Tommo Monthe (Cameroon) hailed the cooperation that prevailed among delegations and allowed the Council to complete its 17-point agenda. “We need this spirit of cooperation to ensure the success of our work now and in the future”, he said.

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Highlights of Council session

A highlight of the Council’s session was the adoption of a draft decision (ISBA/20/C/L.2) by which the Assembly would approve US$ 15,743,143 for the Authority’s operations for the biennium 2015-2016.

The draft decision, based on recommendations of the Finance Committee, was amended to include two additional paragraphs, one urging members of the Committee to fulfil their obligations to attend its meetings. The other would request the Secretary-General to provide in future a complete narrative in support of his budget proposals, including a breakdown of projected costs for large items of expenditure, and to ensure that the budget was in line with the priorities set by both the Council and the Assembly. An existing paragraph was also amended to express appreciation to those members of the Authority who have made voluntary contributions to the Voluntary Trust Fund and the International Seabed Authority Endowment Fund.

The Council, at its second meeting of the Session, took note of two reports of the Secretary-General. One report addressed the status of prospecting and contract for exploration for three types of mineral resources in the seabed Area- polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts (20/C/12 and ISBA/20/C/12/Add.1). It included information on the status of the periodic review of the implementation of the exploration contracts for polymetallic nodules between the International Seabed Authority and the Government of India.

The second report outlined laws, regulations, and administrative measures adopted by sponsoring States and other members of the Authority with respect to activity in the Area.

The Council examined procedures for possible extension of exploration contracts and mechanisms for the formulation of regulations for exploitation in the Area during discussions of a summary report of the Chair of the Legal and Technical Commission on its February and July sessions.

The Council adopted amendments to two separate Regulations - Prospecting and Exploration for Polymetallic Sulphides and Prospecting and Exploration for Polymetallic Nodules.

In other matters, it elected the Czech Republic to the remaining position for vice-president for the Eastern European Group, joining Argentina (Latin American and Caribbean States), Bangladesh (the Asian Group) and the Netherlands (Western European and Others Group) who were elected at the Council’s first meeting.

Ahead of the debate, the 36-member Council received an Explanatory note on the “environmental management plan in the regulatory framework for mineral exploitation in the Area” (ISBA/20/C/13) prepared by the Netherlands.

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