SEABED COUNCIL HEARS COMPROMISE PROPOSAL ON LTC MEMBERSHIP COMPOSITION; ADOPTS DRAFT DECISION ON REPORT OF THE LTC

A compromise proposal to increase the size of the Legal and Technical Commission (LTC) to 37 members was placed before the Council of the International Seabed Authority in an extended morning session in Kingston today. The proposal was offered to members of the executive body attempting to conclude deliberations on agenda item 17 on election of members of the Commission, discussion on which began at yesterday afternoon’s meeting.

Also at its meeting this morning, the Council decided to adopt a draft decision, with an amendment, relating to the summary report of the Chair of the Legal and Technical Commission on its work during 2016. The draft decision (ISBA/22/C/CRP.3) was submitted by Brazil on the basis of comments and contributions by members of the Council.

The president of the Council, Mariusz Jędrysek (Poland) invited the Council to consider the proposed draft decision.

After reading the document, comprising 15 paragraphs, France, supported by China, India, Poland, the Czech Republic, and the observer from Inter Ocean Metal Joint Organization, said that paragraph 7 should be deleted. This paragraph read as follows:

Requests that decisions to be taken on the applications for extension of exploration indicate the new elements introduced in the plan of work for the extension that will enhance the contractor’s capacity to proceed to the exploitation stage.

France said it saw no logic in the paragraph which seemed to be calling on the Council to take a decision “on decisions not yet taken”.

Brazil, in response to the concerns expressed, explained that the paragraph was not intended to refer to the six applications for extension which had been approved on Monday, but to future applications.
The Netherlands, participating as an Observer in the Council during this session, proposed the addition of a paragraph regarding the possibility of offering joint venture arrangements for exploration. It read as follows:

“Requests the Legal and Technical Commission to review the provisions of the regulations on prospecting and exploration relating to the option of offering an equity interest in a joint venture arrangement with a view to aligning all regulations in this respect, and to make a recommendation thereon for consideration by the Council at its next session.

At this point, the President suggested a brief suspension of the meeting to allow members to draft a new version of the draft decision.

The new text presented upon resumption of the meeting, (ISBA/C/22/CRP.3/Rev.1) incorporated a number of changes. Paragraph 7 made mention of Appendix 1, Paragraph 1, including item(c) of the decision contained in ISBA/21/C/19*, which sets out the information to be contained in an application for extension of a contract for exploration.

Additionally, the end of paragraph 11, dealing with scientific workshops, was modified on the suggestion of Bangladesh, to read “encourages the secretariat to work closely with the Commission to determine suitable timing for these workshops, and to ensure the broadest participation of all concerned States Parties.” The Netherlands proposal was included as paragraph 14.

Responding to the new text, France expressed surprise at the importance given to paragraph 1 (c) of ISBA/21/C/19*, when compared to other issues cited in the same document such as environmental baseline data, an estimation of mineral resources or a breakdown of expenditure, which were at least equally important. The representative said his delegation could not accept the paragraph.

Brazil emphasized the importance of including the paragraph, but suggested a compromise text which made mention of paragraph 1 of the decision without specific reference to sub-paragraph (c), a solution which France accepted.

Debate on agenda item 17 focused on calls for more equitable representation of regional groups on the Legal and Technical Commission, an organ of the Council whose members are elected by the Council for a period of 5 years, and serve in their personal capacity. The Commission, currently with 24 members, is entrusted with various functions relating to activities in the deep seabed area, including the review of applications for plans of work, supervision of exploration or mining activities, assessment of the environmental impact of such activities and provide advice to the International Seabed Authority’s Assembly and Council on all matters relating to exploration and exploitation of non-living marine resources (such as polymetallic manganese nodules, polymetallic sulphides and cobalt crusts).

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The Latin American and Caribbean group (GRULAC) and the African group supported the need for equitable geographical distribution in the membership of the Commission in the current five-year review, pursuant to articles 154, 162 and 163 of part X1, sections 2 and 3, respectively of the United Nations Convention on the Law of the Sea.

Argentina, supported by Brazil, Chile, Kenya, South Africa and Uganda, agreed on the need for equitable geographical distribution on the LTC to provide balance, fairness and to ensure that the common heritage of mankind remained for all mankind.

Spain urged delegations not to lose sight of the role of the Commission as an independent and technical entity.

The president of the Council, seeking to arrive at a compromise on the issue suspended the session and called a special meeting of the Council’s Bureau. On resumption, the president proposed a 37-member Commission. It would include the 31 nominations submitted by members of the Authority as at 11 April 2016 with six positions left vacant for developing States of Africa, GRULAC and the Eastern European group.

The Council will meet tomorrow morning at 9:00, before the Assembly, to complete its agenda for this session.

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