

## **Intervention by India on 26 February 2019 on Agenda Item 11 – Decision making**

Thank you very much Madam President. As Indian delegation is taking the floor today for the first time we congratulate you on your election and feel that we are in safe hands when the council is deliberating on the important issue of delegation of functions to the Secretary General by the council and regulatory efficiency. We thank the secretariat for preparing a good report and Mr. Brown for his introduction of the paper. We heard divergent views expressed by the distinguished members of the council regarding the delegation of powers to Secretary General by the council being an executive organ of the ISA. UNCLOS has adequately addressed this issue and established various subsidiary organs under the Council i.e. Legal and Technical Commission and Economic and Finance Commission. Even as ISBA is celebrating 25 years of existence we are still yet to establish Economic and Finance Commission. It may be argued that these functions are addressed by LTC and the membership of LTC has been expanded accordingly. However it is important to discuss the issue of delegation of powers that have been vested with council to the Secretary General as an individual or administrative head of the Secretariat. The analogy, given in the ISA document ISBA/25/C/6 para 7, international practice of powers being vested with civil servants is not adequate. If we consider the example of approval of plan of work for exploitation, it is undertaken through a due process of submission by a contractor to the LTC. It is examined by the LTC and referred to the council for approval after which the mining operation starts. It is argued that the council meets infrequently and decision needs to be taken immediately in the case of emergency or in the event of violation of the environmental guidelines by the contractor while in operation and therefore the Secretary General may be empowered to take an immediate decision on behalf of the authority. However the contractor may not be convinced about the executive powers assumed by the Secretary General for taking a decision on stopping the work or modifying the plan of work. It may be remembered that it is huge investment on part of the contractor and one decision may have a bearing on the protection of the investment. It is our opinion that as we are in the due process of finalising the draft regulations for the exploitation of mineral resources, the Secretary General may be empowered to take decision on behalf of the authority in the case of emergency and report to the council at the earliest for ratification of the decision through due process or to obtain post facto approval as has been the common practice in the commonwealth countries.

This issue needs further discussion and our delegation feels that this document is not yet complete and our delegation needs to discuss the matter with our national headquarters.

Thank you Madam President